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ABSTRACT

This manual is a detailed guide to the "comparability requirement" and other provisions of Title I of the Elementary and Secondary Education Act of 1965 which are intended to ensure that Title I programs provide compensatory education. Section I gives an overview of Title I and its comparability provision. Section II shows how to read and analyze the reports (called "comparability reports") which school districts must prepare to show whether the educational services provided with non-federal funds in Title I schools are comparable to those provided in non-Title I schools. Section III describes the types of errors that a school district may have made in its comparability report and the general procedure to be followed to check for such errors. The data sources used for this check are explained in an appendix. Section IV is a brief summary of the legal requirements of Title I arranged in the order in which they would be considered by a school district that was developing a Title I project. A draft of a model complaint for enforcing comparability in Federal court and legal memoranda on certain issues that may arise in the course of litigation are included. Appendices include: selected U. S. code provisions related to the enforcement of comparability; requirements in code of federal regulations; Title I program guide number 44; United States Office of Education draft manual on comparability (Fall 1970); and, brief for the U. S. Commissioner of Education as amicus curiae, Barrera v. Wheeler. [This document has been reporduced from the best available copy.] (Author/JM)

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A MANUAL FOR ENFORCING TITLE I COMPARABILITY

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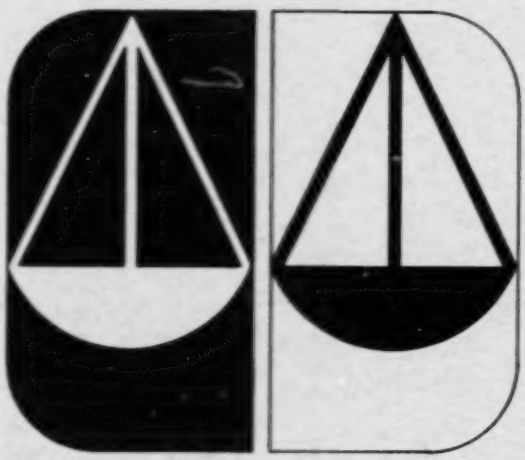

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THE PURPOSE OF THIS MANUAL

This manual was prepared for people who are concerned about the allocation of educational resources among the public schools of their district. It is intended to clear up much of the mystery that often surrounds the reports issued by local, state and federal school officials - especially those reports which show how a school district spends its money.

This manual is designed to help the concerned citizen in what has been and continues to be a long, tedious, but terribly important task - to ensure that educational programs are developed and funded which are responsive to the particular needs of educationally disadvantaged children. Ensuring, as Congress intended, that sufficient funds are used for this purpose in a school district is but one component of this, albeit an important and necessary one. Thus, enforcing the equality provisions of Title I of the Elementary and Secondary Act of 1965 should not be viewed as a panacea.

Similarly, this manual is not intended to result in instant litigation. Before resorting to the courts it is essential that representatives of educationally disadvantaged children have a thorough and systematic knowledge of the nature and extent of the problems for which they seek relief; it is essential that recourse be sought first through negotiation with the relevant school officials; and, finally, it is essential to sound out the sentiments of the poverty community concerning the advisability of initiating litigation.

If any lesson has been learned about seeking education reform through the shifting of educational resources, it is that reform is rarely attained with ease and speed. Government bureaucracies that administer educational funds have often been sheltered from public scrutiny, and, as a consequence, appear reluctant or unable to respond effectively to inequalities in the distribution of education monies. Accordingly, it is important to approach the task of reforming the allocation of resources among schools with an awareness of the size of the task and a commitment to see it completed.

TABLE OF CONTENTS

The Purpose of this Manual

A GUIDE TO COMPARABILITY (Tab)

Introduction
Section I

What is Comparability? 1
Why is Comparability Important? 3
A Word about Parental Involvement 3

Section II - HOW TO ANALYZE A COMPARABILITY REPORT

Analyzing the Five Ratios 5
Ratio 1 5
Ratio 2 7
Ratio 3 8
Ratio 4 9
Ratio 5 11
The Less than One Rule 12
The Cost of Attaining Comparability 15
A Note on Non-Title I School Averages 17

Section III - CHECKING FOR ERRORS IN A COMPARABILITY REPORT

General Errors in Comparing Title I and Non-Title I Schools 18
Common Errors Relating to the Pupil and Staff Counts 21
Common Errors Relating to Expenditure Figures .. 21
The Comparability Report Columns 24

Section IV - SUMMARY OF BASIC TITLE I REQUIREMENTS

Comparability 30
Selecting the Project Area 31
Selecting the Project 32
In Service Training 33
Evaluating the Project 33
Disseminating Information 33
Supplanting 33
Construction 34
Equipment 34
Responsibilities of the State Agency 34

Footnotes 35

APPENDICES (Tab)

Appendix A

Definitions ..... A- 1

Appendix B

Table of Contents ..... B- 1
Explanatory Note ..... B- 2
Comparability Report and Comparability Plan ..... B- 4
Supporting Documents for the Comparability Report ..... B- 8
Budget and Expenditure Reports ..... B- 6
Instructional Personnel Audit List ..... B- 9
Salary Schedule B-12
Annual Statistical Summary B-14
Annual Financial Report B-15
ADM/ADA Report B-18
HEW/OCR Directory B-20
Desegregation Report B-24
Personnel Directory B-24
Title I Project Application B-26
Reports Made by Local School Boards to the State Educational Agency B-39
Other Federal Project Applications or Federal Projects' Summary B-47
Miscellaneous Sources B-51

Appendix C

Selected U.S. Code Provisions Related to the Enforcement of Comparability ..... C- 1

Appendix D

Requirements in Code of Federal Regulations ..... D- 1

Appendix E

Title I Program Guide #44 ..... E- 1

Appendix F

U.S.O.E. Draft Manual on Comparability (Fall 1970) ..... F- 1

Appendix G

Brief for the U.S. Commissioner of Education as Amicus Curiae, Barrera v. Wheeler ..... G- 1

MODEL COMPLAINT (Tab) 1

LEGAL MEMORANDA (Tab)

Title I Comparability Legal Issues 1
Plaintiffs' Memorandum from Babbidge v. Richardson 2
Parents of Educationally Deprived May Sue on Title I, Court Rules 31
Supplement to the Babbidge Memorandum 32
Public Information 40

INTRODUCTION

This manual is a detailed guide to the "comparability requirement" and other provisions of Title I of the Elementary and Secondary Education Act of 1965, which are intended to ensure that Title I programs provide compensatory education and do not merely mitigate the discrimination in funding and educational services that a school district may practice against schools with large numbers of children from improverished homes.

Section I of this manual gives an overview of Title I and its comparability provision.

Section II shows how to read and analyze the reports (called "comparability reports") which school districts must prepare to show whether the educational services provided with non-federal funds in Title I schools are comparable to those provided in non-Title I schools. Because of the arithmetic involved, many people believe comparability to be more complex than it is. All of the arithmetic is really very simple, and Section II is written so that a layman, with no prior knowledge of Title I, can understand and check the figures in a comparability report. Hopefully, Title I parents and parents' organizations will find this useful for checking their school district's compliance with the educational equality that comparability guarantees.

Section III describes the types of errors that a school district may have made in its comparability report and the general procedure you should follow to check for such errors. The data sources you will use for this check are explained in Appendix B.

Section IV is a brief summary of the legal requirements of Title I arranged in the order in which they would be considered by a school district that was developing a Title I project.

These four sections comprise the first part of this manual which we have tabled "A Guide to Comparability."

The Appendices are found at the second divider. We have placed them there rather than at the back of the manual because most of the material in the Appendices will be used in conjunction with the "Guide to Comparability."

A draft of a model complaint for enforcing comparability in federal court and legal memoranda on certain issues that may arise in the course of such litigation are found behind the Appendices.

SECTION I

A. What Is Comparability?

In 1965 Congress enacted the Elementary and Secondary Education Act, the first large-scale program for federal aid to schools in American history. Title I of this act, which dispenses more than one billion dollars yearly to approximately two-thirds of the nation's school districts, was designed to provide extra or "compensatory" programs for eight million educationally disadvantaged students.

Unfortunately, many school districts have not used Title I funds as the Act intended. Schools eligible to receive Title I funds, because of their high concentrations of students from poor families, were often the same schools which received a disproportionately small share of their district's funds. Rather than eliminating this district discrimination with state and local funds, school districts often have used Title I funds to fill this gap. In other words, Title I funds have provided educational services in schools serving the poor that should have been provided by state and local funds.

In 1970 Congress reaffirmed its intention that Title I funds should be compensatory by enacting "comparability" requirements. The law states:

> "State and local funds will be used in the district of such [local education] agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under [Title I]. (Emphasis added.)
>
> 20 U.S.C. 241 e(a)(3)(C)

"Comparability," then, means each school district must show that it provides approximately equal services in all its schools with state and local funds alone before federal Title I funds may be granted. Thus, the comparability requirements, if enforced, ensure that school districts use Title I funds to supplement rather than supplant state and local funds.

Each local educational agency (LEA) must submit a "comparability report" to its state educational agency by July 1

each year, beginning in 1971. Then, beginning July 1, 1972 (fiscal year 1973), no state educational agency (SEA) may approve an LEA's Title I project application (which includes a budget, a description of the children's needs and programs to remedy them, and a suitable method of evaluating these programs) unless the LEA submits a comparability report and presents a plan to show how any cases of non-comparability shown in the report will be alleviated. In other words, school districts must demonstrate that they provide equal or additional services in Title I schools before they can receive Title I money.

Comparability is actually judged by comparing each Title I school to the average of the non-Title I schools serving the same grades, and five different standards of comparison are used:

1. The ratio of pupils to certified classroom teachers;

2. The ratio of pupils to other certified instructional staff (principals, guidance counselors, librarians, audio-visual personnel, etc.);

3. The ratio of pupils to non-certified instructional staff (paraprofessionals, teacher aides, etc.);

4. The expenditure per pupil for instructional salaries, exclusive of longevity pay; and

5. The expenditure per pupil for other instructional costs (textbooks, library books, audio-visual materials, teaching supplies, etc.).

To be comparable with respect to any of these standards, each Title I school's ratio must not be more than 5% worse than the average ratio of the non-Title I schools of the same grade span. Specifically, comparability is achieved in any given Title I school if the pupil-staff ratios in criteria 1, 2 and 3 do not exceed 105% of the average ratio for the corresponding non-Title I schools and if the per-pupil expenditure averages of ratios 4 and 5 are at least 95% of the average expenditures in the corresponding non-Title I schools.

Two other considerations are important. With respect to ratios 2 and 3, if less than one additional staff person would be required to make a Title I school comparable to the non-Title I school

average, no change in staffing is required. Second, non-comparability in any one of the five criteria makes a school non-comparable.

B. Why Is Comparability Important?

A September 1972 report by the Department of Health, Education and Welfare (HEW) Audit Agency, based on government audits of eleven large school districts across the country, indicated that several local school districts submitted comparability reports which use "unreliable estimates and inaccurate figures." 1/ As a result, LEA (local educational agency) comparability reports do not accurately reflect the comparability posture of school districts which contain Title I schools.

A report by the Lawyers' Committee for Civil Rights Under Law, issued at the same time, showed that of eighty of the nation's largest school districts, seventy-nine had one or more non-comparable schools. Moreover, one-quarter of these districts were non-comparable in 80% or more of their Title I schools. 2/

With comparability of state and local services thus shown to be such an undemonstrated, often non-existent fact, the idea that Title I presently functions to provide compensatory education as it was intended, seven years and over $8.5 billion dollars after its inception, is a myth. Certainly, large sums of this money have been put to non-compensatory uses. Moreover, this misuse of compensatory funds shows that the opinion maintained by some people that compensatory education does not work cannot be based on the Title I experience to date. However, the enforcement of comparability can free Title I funds for the compensatory purposes which Congress intended. Only then can the real value of this compensatory education experiment be assessed.

C. A Word About Parental Involvement

It should be noted at this point that each local school district is required by the Office of Education to organize a Parent Advisory Council (PAC). The PAC is supposed to help decide local Title I policy.

In many school districts, however, PAC's, if they exist at all, act only as rubber stamps for the school districts' own plans. This situation stems from at least two factors: first, from the profound reticence of many local school districts to yield any power to PAC's; and second, from the parents' lack of knowledge about Title I.

One purpose of this manual is to acquaint PAC's with an area that may be of substantial concern to them. It will guide them in their efforts to collect information that will be useful in checking the validity of their district's comparability report. It is hoped that after parents have read this manual they will go to their schools and find out exactly what educational resources are being devoted to their children's education.

Now that we have explained the meaning and operation of the comparability requirement, we turn to Section II which will show how to do the simple arithmetic required to determine whether schools are comparable and to determine the necessary staffing and funding changes required to eliminate non-comparable schools.

At this point, we suggest you turn to Appendix A, where several terms used in determining comparability are defined.

SECTION II

HOW TO ANALYZE A COMPARABILITY REPORT

Analyzing the Five Ratios

This section examines a sample comparability report (Table 1), assuming that the data supplied in it is correct.

Looking at Table 1, we can make the following statements: Columns 1 through 4 are numbers of people in these schools, while Columns 8, 9, 10 and 12 are amounts of money spent for instruction in the schools. That leaves only Columns 5, 6, 7, 11 and 13 unexplained, and these are the five comparability ratios.

Keep in mind that each Title I school, to be considered comparable, must be comparable with respect to all five ratios mentioned in Section I. Also keep in mind that the federal regulations allow Title I schools to be as much as 5% worse off than the non-Title I average for each ratio and still be considered comparable.

RATIO 1, "THE AVERAGE NUMBER OF PUPILS PER ASSIGNED CERTIFIED CLASSROOM TEACHER" 3/

Ratio 1 is obtained by dividing the number of pupils in average daily membership (ADM) by the number of full-time equivalent (FTE) certified classroom teachers. In Table 1:

$$\text{Ratio 1} = \text{Column 5} = \frac{\text{Column 1}}{\text{Column 2}}$$

and is expressed in units of pupils per teacher.

Five Percent Calculation

The non-Title I schools' average (from Table 1, Column 5) is 20.7. In this case, a higher ratio of pupils to teachers would be worse, so we set 105% of 20.7 as the upper limit for the ratio of pupils to teachers. Since 105% of any number equals 1.05 times that number, the computation looks like this:

$20.7 \times 105\% =$

$20.7 \times 1.05 = \underline{21.7}$ * pupils per teacher,

which is the highest pupil - teacher ratio a Title I school may have and still be comparable.

Computation for Each Title I School

For SUITLAND Elementary School (Table 1):

$$\text{Ratio 1} = \frac{\text{Column 1}}{\text{Column 2}} = \frac{576.2}{27.1} = \frac{21.3}{1} = \text{Column 5.}$$

Because 21.3 is less than 21.7, SUITLAND is comparable with respect to ratio 1.

In the same manner, TALL OAKS Elementary School's pupil-teacher ratio is

$$\frac{566}{24.5} = 23.1 \text{ (which is greater than 21.7)}$$

and TALL OAKS is non-comparable.

* The figures in this section have been rounded to the nearest one-tenth, except for dollar figures which are to the nearest cent.

For THOMAS STONE Elementary School, the ratio is

$$\frac{426}{21.3} = 20.0,$$

and THOMAS STONE is also comparable with respect to ratio 1.

RATIO 2, "THE AVERAGE NUMBER OF PUPILS PER ASSIGNED CERTIFIED INSTRUCTIONAL STAFF MEMBER (OTHER THAN TEACHERS)" 4/

Ratio 2 is obtained by dividing the number of pupils in ADM by the average number of FTE other certified instructional staff (principals, guidance counselors, librarians, audio-visual personnel, etc.). In Table 1:

$$\text{Ratio 2} = \text{Column 6} = \frac{\text{Column 1}}{\text{Column 3}}$$

and is expressed in units of pupils per other certified staff member.

Five Percent Calculation

The non-Title I schools' average (from Table 1, Column 6) is 187.4. As in ratio 1, a higher ratio of pupils to staff would be worse, so the 5% limit is 105% of 187.4.

187.4 x 105% =

187.4 x 1.05 = 196.8 pupils per other certified staff member,

the highest ratio of pupils to other certified instructional staff a Title I school may have and still be comparable with respect to ratio 2.

Computation for Each Title I School

For SUITLAND Elementary School (Table 1):

$$\text{Ratio 2} = \frac{\text{Column 1}}{\text{Column 3}} = \frac{576.2}{2.1} = 274.4$$

and SUITLAND is noncomparable as a result.

Similarly, TALL OAKS Elementary School's figures (Table 1) are

$$\frac{566}{2.0} = 283.0$$

and TALL OAKS is non-comparable.

The figures for THOMAS STONE Elementary School (Table 1) are

$$\frac{426}{2.0} = 213.0$$

so THOMAS STONE is non-comparable.

It should occur to you at this point that all the Title I schools are now non-comparable. If you will remember, TALL OAKS was already non-comparable in the number of pupils per certified teacher, ratio 1. Since non-comparability in any one of the five areas is sufficient to make a school non-comparable, finding TALL OAKS non-comparable with respect to ratio 2 had no effect on its comparability status; TALL OAKS was non-comparable before ratio 2 was considered, and it would have remained non-comparable no matter what was decided for ratio 2.

Earlier we mentioned that any school non-comparable with respect to ratios 2 or 3 need not take action to alleviate the non-comparability if less than the equivalent of one full-time staff member would be required to do so. Later in this section (page 12), we make that determination for each Title I school non-comparable by ratio 2 or 3. You might want to see how our Title I schools fared on such a basis by turning to that discussion now.

RATIO 3, "THE AVERAGE NUMBER OF PUPILS PER ASSIGNED NON-CERTIFIED INSTRUCTIONAL STAFF MEMBER"5/

Ratio 3 is computed by dividing the number of pupils in ADM by the number of FTE non-certified instructional staff. In Table 1:

$$\text{Ratio 3} = \text{Column 7} = \frac{\text{Column 1}}{\text{Column 4}}$$

and is expressed in units of pupils per non-certified instructional staff member.

Five Percent Calculation

The non-Title I schools' average for ratio 3 (from Table 1, Column 7) is 218.6. The allowable 5% margin sets the upper limit for ratio 3 comparisons at 105% of 218.6.

$$218.6 \times 105\% =$$

$$218.6 \times 1.05 = 229.5$$ pupils per non-certified instructional staff member.

So, for a Title I school to be comparable to the non-Title I schools' average with respect to ratio 3, its own ratio must be no higher than 229.5 pupils per staff member.

Computation for Each Title I School

SUITLAND Elementary School's pupil-staff ratio is

$$\frac{576.2}{2.0} = 288.1,$$

making it once again non-comparable.

TALL OAKS Elementary School's ratio is

$$\frac{566}{2.0} = 283.0$$

and it, too, is non-comparable.

The THOMAS STONE Elementary School ratio is

$$\frac{426.0}{1.5} = 284.0$$

making it similarly non-comparable.

As in ratio 2, we will not know whether the school district must take action to alleviate the non-comparability in these three schools until we apply the "less than one" rule (in the second part of this section).

RATIO 4, "THE AMOUNTS EXPENDED PER PUPIL FOR INSTRUCTIONAL SALARIES (OTHER THAN LONGEVITY PAY)"6/

Since longevity pay is not allowed to be considered in ratio 4, the total amount expended for instructional salaries (Column 8) must first be separated into the amount expended solely for longevity pay (Column 9) and the remaining amount, which is the total amount less longevity pay (Column 10). In other words:

Column 10 = Column 8 - Column 9

Then the per-pupil expenditure is computed by dividing the amount expended for instructional salaries less longevity by the number of pupils in ADM. Therefore,

$$\text{Ratio 4} = \text{Column 11} = \frac{\text{Column 10}}{\text{Column 1}}$$

and is expressed in units of dollars per pupil.

Five Percent Calculation

The non-Title I schools' average for ratio 4 (from Table 1, Column 11) is $411.00 per pupil. Once again, the Title I schools are

considered comparable if they are not more than 5% worse off than this average. In this case, that means they may receive 5% fewer dollars per pupil or 95% of the non-Title I schools' average per-pupil expenditure. Accordingly, 95% of $411.00 is the lowest amount per pupil any Title I school may spend for instructional salaries and yet remain comparable with respect to ratio 4.

$411.00 x 95% =

$411.00 x 0.95 = $390.45 per pupil.

The low limit for ratio 4 is $390.45 per pupil.

Computation for Each Title I School

As with the non-Title I schools, we first compute the total amount paid for instructional salaries less longevity in each school by subtracting Column 9 from Column 8 and checking to see that it does in fact equal Column 10:

	Column 8		Column 9		
SUITLAND	305,105	-	85,862	=	219,243
TALL OAKS	278,702	-	78,432	=	200,270
THOMAS STONE	242,519	-	68,250	=	174,269

Next, we compute the ratio for each school, remembering that:

$$\text{Ratio 4} = \text{Column 11} = \frac{\text{Column 10}}{\text{Column 1}}$$

to determine that:

SUITLAND Elementary School

$$\frac{\$219,243}{576.2} = \$380.50$$

is non-comparable;

TALL OAKS Elementary School

$$\frac{\$200,270}{566.0} = \$353.83$$

is likewise non-comparable;

and,

THOMAS STONE Elementary School

$$\frac{\$174,269}{426.0} = \$409.08$$

is the only school comparable with respect to ratio 4.

RATIO 5, "THE AMOUNTS EXPENDED PER PUPIL FOR OTHER INSTRUCTIONAL COSTS, SUCH AS THE COST OF TEXTBOOKS, LIBRARY RESOURCES, AND OTHER INSTRUCTIONAL MATERIALS"7/

Ratio 5 is computed by dividing the amount of money expended for other instructional costs by the number of pupils in ADM. In Table 1:

$$\text{Ratio 5} = \text{Column 13} = \frac{\text{Column 12}}{\text{Column 1}}$$

and is expressed in units of dollars per pupil.

FIVE PERCENT CALCULATION

The non-Title I schools' average for ratio 5 (from Table 1, Column 13) is $29.81. As in ratio 4, we are concerned that the Title I schools do not receive less money than the non-Title I schools, so our 5% limit is 95% of $29.81, the lowest amount per pupil a Title I school may spend and still be comparable with respect to ratio 5.

$29.81 x 95% =

$29.81 x 0.95 = $28.32

$28.32 is the low limit for ratio 5.

Computation for Each Title I School

SUITLAND Elementary School

$$\frac{\$17,176}{576.2} = \$29.81$$

is comparable with respect to ratio 5;

TALL OAKS Elementary School

$$\frac{\$16,872}{566.0} = \$29.81$$

is also comparable with respect to this ratio; and,

THOMAS STONE Elementary School

$$\frac{\$12,699}{426.0} = \$29.81$$

is similarly comparable with respect to the ratio.

At this point in our analysis, a preliminary summary of our comparability computations is in order, and we label it Table 2. After Table 2, notice that, although all three schools are non-comparable (because each is non-comparable with respect to at least one ratio), we cannot determine whether or not the local educational agency must take action to alleviate the non-comparability they share with respect to ratios 2 and 3 until we utilize the "less than one" rule in the next discussion.

TABLE 2

Comparability Summary Before Considering the "Less Than One" Rule

School	Ratio 1	Ratio 2	Ratio 3	Ratio 4	Ratio 5
SUITLAND	o	x	x	x	o
TALL OAKS	x	x	x	x	o
THOMAS STONE	o	x	x	o	o

o = comparable
x = non-comparable

The "Less Than One" Rule

We now return to ratios 2 and 3 to see whether, in each school found non-comparable with respect to either ratio, the addition of less than one full-time staff member would suffice to make the school comparable for that ratio. If so, the school district need not take action to eliminate non-comparability in that instance. 8/

Ratio 2

When we examined ratio 2, we determined that the highest permissable ratio of pupils to staff, including the 5% allowance, was 196.8 (non-Title I average plus the 5% deviation). We computed the ratio by dividing Column 1 by Column 3, and the numbers for each Title I school were as follows:

SUITLAND $\frac{576.2}{2.1} = 274.4$

TALL OAKS $\frac{566.0}{2.0} = 283.0$

THOMAS STONE $\frac{426.0}{2.0} = 213.0$

To determine whether or not a school district is required to take action to achieve comparability pursuant to the regulations, i.e., whether a full-time staff member would be required to achieve comparability, you must make the following computation:

$$\text{Number of other certified instructional staff required to achieve comparability} = \frac{\text{Number of students at each Title I school (Column 1)}}{\text{Non-Title I average ratio (Column 6) + 5\% deviation}}$$

Therefore our computation for each school is as follows:

SUITLAND $\quad \frac{576.2}{196.8} = 2.93$

Thus to be within 5% of the average of non-Title I schools, SUITLAND must have 2.93 other certified instructional staff. SUITLAND presently has 2.1 other certified instructional staff (see Comparability Report, page 6.) Thus .83 additional other certified instructional staff are required (2.93 - 2.1 = .83). Since the regulations say that no action is required by the school district if less than the equivalent of one full-time staff member is required, no action is required at SUITLAND to correct this ratio.

TALL OAKS $\quad \frac{566}{196.8} = 2.88$

2.88 - 2.0 = .88 which is less than one FTE and therefore no action is required at TALL OAKS.

THOMAS STONE $\quad \frac{426}{196.8} = 2.16$

2.16 - 2.0 = .16 which is less than one FTE and therefore no action is required at THOMAS STONE.

Ratio 3

Our upper limit on the ratio of pupils to staff in ratio 3 is 229.53, including the allowable 5% margin. Remember that all three Title I schools exhibited higher ratios and were thus non-comparable. The computations are as follows:

SUITLAND $\frac{576.2}{2.0} = 288.1$

TALL OAKS $\frac{566.0}{2.0} = 283.0$

THOMAS STONE $\frac{426.0}{1.5} = 284.0$

Let us now determine whether or not the school district is required to take action to achieve comparability for each Title I school with respect to ratio 3. The formula is as follows:

$$\text{Number of non-certified instructional staff required to achieve comparability} = \frac{\text{Number of students at each Title I school (Column 1)}}{\text{Non-Title I average ratio (Column 7) + 5\% deviation}}$$

SUITLAND $\frac{576.2}{229.5} = 2.5$

By subtracting 2.0 (the number of non-certified staff presently at SUITLAND) from 2.5 you see that .50 additional staff are required. Since the regulations say that no action is required by the school district if less than one FTE staff member is required, no action is required at SUITLAND to correct this ratio.

TALL OAKS $\frac{566}{229.5} = 2.47$

2.47 - 2.0 = .47 which is less than one FTE and therefore no action is required at TALL OAKS.

THOMAS STONE $\frac{426}{229.5} = 1.86$

1.86 - 1.50 = .36 which is less than one FTE and therefore no action is required at THOMAS STONE.

The law still considers these schools non-comparable with respect to ratios 2 and 3, but, by virtue of the less than one rule, no school district action is required. Accordingly, we have taken this into account in our summary of comparability shown below:

TABLE 3

School	Ratio 1	Ratio 2	Ratio 3	Ratio 4	Ratio 5
SUITLAND	o	xn	xn	x	o
TALL OAKS	x	xn	xn	x	o
THOMAS STONE	o	xn	xn	o	o

o = comparable
xn = non-comparable but no corrective action required
x = non-comparable

In summary, we found three instances of non-comparability involving two non-comparable schools. The only comparable school is THOMAS STONE.

The Cost of Attaining Comparability

One other useful question to answer before leaving this sample comparability report is how much would eliminating each instance of non-comparability cost? We will now illustrate, ratio by ratio, the calculations necessary to answer this question.

RATIO 1, "CERTIFIED TEACHERS"

TALL OAKS is the only school non-comparable in ratio 1. If TALL OAKS were to be made comparable with respect to this ratio, the highest pupil-teacher ratio it could have (even considering the 5% limit) is 21.74, as we determined when we examined ratio 1. The total number of teachers required at TALL OAKS equals the number of pupils divided by this required pupil-teacher ratio. In other words:

$$\frac{566.0 \text{ pupils}}{21.7 \text{ pupils per teacher}} = 26.0 \text{ required teachers}$$

Since TALL OAKS presently has only 24.5 teachers, it must add 26.0 - 24.5, or 1.5 teachers to become comparable with respect to ratio 1.

If we know the salary schedule in this district, we can compute the exact cost of adding one full-time and one half-time teacher.

If $7500 is the salary (excluding longevity pay) for a beginning teacher with a B.A. degree, we find:

$$\$7500 \times 1.5 = \$11,250$$

and $11,250 is the minimum cost of making TALL OAKS comparable with respect to ratio 1.

RATIOS 2 AND 3, "OTHER CERTIFIED INSTRUCTIONAL STAFF MEMBERS AND NON-CERTIFIED INSTRUCTIONAL STAFF MEMBERS"

None of the schools were required to make staffing changes to satisfy ratios 2 and 3, so no computations are required. Had they been, we would have done them in exactly the same manner as we did those for ratio 1.

RATIO 4, "INSTRUCTIONAL SALARIES"

Both SUITLAND and TALL OAKS failed to meet the ratio 4 standard, so we will determine the cost of attaining comparability for each school.

The lowest acceptable expenditure per pupil permitted by ratio 4 was $390.45. SUITLAND, however, only spent $380.50 per pupil. Therefore, SUITLAND must spend at least $9.95 more for every student ($390.45 - 380.50 = $9.95). Since SUITLAND's enrollment is 576.2, the required amount of money is

$9.95 per student x 576.2 students = $5733.19

This could be done by hiring a new person or by replacing some of the present people with better qualified (and hence higher paid) replacements.

Similarly, TALL OAKS must increase its expenditure for instructional salaries per pupil by

$390.45 - $353.83 = $36.62

Since TALL OAKS has 566.0 pupils, the required increase is

$36.62 per pupil x 566.0 pupils = $20,726.92

Part of the $20,726.92 could be used to hire the 1.5 teachers TALL OAKS needs to satisfy the pupil-teacher ratio, ratio 1. So actually, the $11,250 we calculated as the cost of making TALL OAKS comparable with respect to ratio 1 is not an additional required sum but part of the $20,726.92 providing that the $20,726.92 is spent to provide at least 1.5 additional certified teachers.

Computations for ratio 5 would proceed exactly as we just illustrated, but since no schools were non-comparable with respect to that ratio, we are now in a position to summarize our findings. In Table 4, we show the increased expenditures, by school and by ratio, required to achieve comparability in this district.

We can now say that the cost of achieving comparability in this hypothetical district with only three Title I schools is about $26,500.

TABLE 4

School	Ratio 1	Ratio 2	Ratio 3	Ratio 4	Ratio 5	Totals
SUITLAND	0	0		5,733.19	0	5,734.29
TALL OAKS	11,250	0		20,726.92	0	20,726.92*
THOMAS STONE	0	0		0	0	0
TOTALS	11,250	0		$26,460.11	0	26,460.11*

*The $11,250 listed for TALL OAKS in ratio 1 is included in the $20,726.92 listed for TALL OAKS in ratio 2, because both figures involve the cost of additional teachers needed at the school.

A Note on Non-Title I School Averages

We have assumed in this section that the averages for non-Title I schools have been correctly calculated. This assumption is not always well made since the computation of non-Title I averages can be quite tricky. If the school district has included school-by-school data for non-Title I schools or if independent data is available to check non-Title I school averages, turn to page 20 of section III for further explanation.

SECTION III

CHECKING FOR ERRORS IN A COMPARABILITY REPORT

In this section, we will consider the types of errors that a school district may have made, either negligently or intentionally, in preparing its comparability report.

Sources of data needed to check for such errors are discussed in greater detail in Appendix B.

We will be looking for a number of different types of errors, some of which overlap:

Errors in arithmetic -- the addition or division of the numbers in the comparability report may be inaccurate.

Deviations from what OE regulations or program guides require, e.g., including point-in-time data when average data is required or using estimates when actual figures are required.

Whether regulations have been followed or not, the data may not accurately represent what it purports to represent, e.g., the use of point-in-time data (in violation of the regulations) which are not even accurate as of that point in time.

Use of data from different years, e.g., figuring ratio 1 from the number of pupils in 1970-71, and the number of teachers in 1969-70.

General Errors in Comparing Title I and Non-Title I Schools

(a) Make sure that the comparability report correctly separates the Title I schools from the non-Title I schools, putting each school in its proper group and leaving none out. The Title I application contains this information.

(b) See if your LEA separated the schools of a particular grade span on the basis of size. For example, the Louisville Public Schools divide their elementary schools into small, medium and large size categories. A non-Title I average is then computed for each category and the Title I schools of this same size group are then compared to that average.

The Title I regulations do not mention size stratification in comparability reporting, but some limited justification for the policy is provided in an OE "Advisory Statement on Development of Policy on Comparability," which says:

> "The state educational agency may wish to consider in its criteria the differences between small and large schools within a district. There may be a variance in per-pupil instructional expenditures according to size of school." 9/

Notice that ratio 4, per-pupil instructional expenditure, is the only ratio explicitly mentioned in this statement.

School systems may use this method because it generally results in fewer Title I schools appearing non-comparable, especially if the size groupings are chosen judiciously. For instance, an LEA might compile several comparability reports, all different, in that the school size cut-offs for the categories of small, medium and large schools would vary with each report. Then the LEA could compute the number of non-comparable schools according to each cut-off and submit the report which showed the fewest non-comparable schools.

The HEW Audit Agency's Report on Review of the Implementation of Comparability Provisions, Public Law 91-230, introduces a further consideration:

> "...Nationally,...a substantial number of Title I schools have larger enrollments than non-Title I schools. As a result, stratification by school size for the purposes of determining comparability could negate the intent of the comparability provision." 10/
>
> "A limited analysis in one district indicated that... grouping the schools by enrollment size for purposes of determining comparability significantly reduced the number of non-comparable schools from 102 to 22." 11/

To determine whether grouping has a similar effect on your schools, lump all the non-Title I schools of a particular grade span

together and compare each Title I school to the average. You will probably find more schools non-comparable than your LEA did (if it grouped schools in its report).

(c) See whether your comparability report compares schools of corresponding grade level. For example, Title I elementary schools should be compared to non-Title I elementary schools. On the other hand, a Title I elementary school serving grades 1 through 6 or kindergarten through grade 3, for instance, can and should be compared to non-Title I elementary schools which serve kindergarten through grade 6. If k-3 schools are only compared with other k-3 schools, there will probably not be sufficient schools to make a meaningful comparison.

(d) Did your LEA compare each Title I school in the comparability report as required, or did it just compare a Title I school <u>average</u> to the non-Title I school average?

(e) Make sure that your LEA has included all of the non-Title I schools in determining the non-Title I school averages.

(f) Make sure that your LEA has not computed its non-Title I school averages for the five criteria by adding up the ratios for each non-Title I school and dividing by the total number of non-Title I schools. With respect to the staff ratios (Columns 5, 6, & 7), the LEA should have divided the total number of non-Title I students in the district by the total number of non-Title I staff in each category. (Another correct way of calculating these staff ratios is to determine the <u>average</u> number of pupils per non-Title I school and to divided that number by the <u>average</u> number of staff members per non-Title I school in each category.) With respect to the expenditure ratios (Columns 11 & 13) the LEA should have divided the total number of non-Title I students in the district into the total expenditure for all non-Title I schools in each expenditure category. (Or, another correct way of calculating these ratios is to determine the average number of pupils in non-Title I schools and to divide that number into the average expenditure per non-Title I school in each expenditure category (Columns 10 & 12).)

Common Errors Relating to the Pupil and Staff Counts

(a) OE regulations require districts (for comparability purposes) to report:

(1) pupils in average daily membership (ADM) over the whole school year; and,

(2) the average number of staff members over the whole year. (45 CFR 116.26(b))

Check to see whether point-in-time totals or averages were used in Columns 1 through 4. If averages were used, how were they compiled; using attendance every day of the year or just some selected days? The HEW Audit Agency Report commented as follows:

"The majority of the LEA's reviewed used point-in-time data, instead of the yearly averages required by OE, for determining the number of pupils enrolled in each school."12/

"The comparability audit revealed that the use of static enrollment totals can significantly distort comparability data." 13/

(b) Federally supported instructional staff members should not be included in the staff figures in the report, since comparability is concerned with services provided solely from state and local funds. This applies to the number of staff members listed in Columns 2 through 4 and their salaries in Columns 8 through 10. The HEW/OCR Directory and the other federal program applications your LEA submits will be helpful for checking this (see Appendix B).

(c) Another similar error is to leave out from the pupil figures the children taught by federally supported staff members. A comparison of the various ADM/ADA sources listed in Appendix B should uncover this error if it exists.

Common Errors Relating to Expenditure Figures

(a) Determine whether or not your LEA used a school-by-school accounting system for the school year the comparability report analyzes. If it did not, then all its financial totals in the report may be estimates which could be far from accurate.

The HEW Audit Agency Report had this comment:

> The LEA's normally maintain records of all activities on a district-wide basis. Therefore, LEA's had to reconstruct records and make estimates in order to prepare statistics for each of the schools covered by the report. Consequently, LEA comparability reports were based on criteria ratios improperly calculated from unreliable estimates and inaccurate figures." 14/

This financial guessing is most often exhibited in the "other instructional costs" computation. In our Chapter 2 computation based on the Prince George's County (Maryland) report (see Table 1, page 6), it is more than a coincidence that Column 13, other instructional costs per pupil, is $29.81 for the non-Title I schools average as well as for every Title I school. The LEA did not know how much it spent at each school, so it divided the total that it spent by the total number of elementary school pupils in the district to get $29.81 per pupil. Column 12 totals on that report may be obtained by multiplying $29.81 by the number of pupils in each Title I school and all the combined non-Title I schools. Remember that a local school district has an affirmative duty to demonstrate comparability in its report. Its unwillingness to keep proper records cannot excuse it from this duty, especially since Congress gave districts two years to comply with the comparability requirement.

(b) The Office of Education has established a standard set of accounts and account numbers for recommended use by LEA's (Handbook II: Financial Accounting for Local and State School Systems). Each column of financial totals in the comparability report is actually comprised of several of these accounts, not just one. Handbook II's description of each of the relevant accounts is included in the definitions of "Instructional Salaries" and "Other Instructional Costs" in Appendix A. Other instructional costs, for example, is composed of nine of these accounts. LEA's may forget to include some accounts or include others which it mistakenly thought applied,

especially if the LEA does not use the OE standard accounting system. You will have to compare the comparability expenditure figures to those in an LEA's annual budget or expenditure analysis to check this (see Appendix B).

The Comparability Report Columns *

Column 1, the number of pupils in ADM

(a) Make sure ADM rather than a point-in-time or some other average was used.

(b) Make sure kindergarten pupils who are present only one-half of each school day are counted to reflect that fact. For example, a school with 708 pupils, 115 of which are in kindergarten, has an ADM of 650.5 (because 708 total students = 593 full-time students in grades 1-6 plus 115 half-time kindergarten students so that $593+\frac{115}{2}$ = 650.5 ADM).

Since kindergarten has sometimes been regarded as an educational luxury, it may occasionally be offered in the more affluent non-Title I areas but not in Title I communities. In such a case, the error of counting kindergarten pupils as full-time students can markedly distort the ADM figures, thereby distorting all five ratios (since all ratios use the ADM total). The following example will illustrate.

Consider a school district with two types of schools as follows: First, its average non-Title I school includes 600 students, 100 of whom are kindergarten students, and 20 FTE certified classroom teachers; second, it contains a Title I school with 600 students, 20 FTE certified teachers and no kindergarten. If the district erroneously counted kindergarten students in the non-Title I schools as full-time students, the non-Title I average pupil-teacher ratio would be $\frac{600}{30}$ or 30 pupils per teacher (the same as the Title I school we are considering). However, the non-Title I average pupil-teacher ratio, if figured correctly, would have been

$$\frac{500 + \frac{100}{2}}{20} = \frac{550}{20} = 27.5 \text{ pupils per teacher}$$

* These are the columns in Office of Education recommended comparability form (see Appendix F-8). Since not all LEA's use this form, the columns in the report filed by your district may be arranged differently.

Now, even with the 5% allowance (27.5 x 1.05 = 28.88 pupils per teacher), the Title I school, with its 30 to 1 pupil-teacher ratio, is not comparable.

(c) Make sure all pupils are counted. Sometimes, pupils are erroneously left out because their teachers are paid from federal funds or they attend special education classes.

Column 2, the average number of FTE certified classroom teachers

(a) Make sure that only teachers with certificates have been counted.This group includes regular classroom teachers, special class teachers, teachers of the homebound, teachers of exceptional children (handicapped, etc.) and long-term substitute teachers. Short-term substitutes are not included because the teachers they replace are included in the teacher count of that school. Similarly, short-term substitute's salaries should not be included in columns 8-10.

(b) A problem similar to the one discussed in (a) above could arise in a state like Kentucky, where state law allows two paraprofessionals to take the place of one teacher for purposes of state financial support to LEA's. However, for purposes of ratio 1,the two paraprofessionals cannot be considered the equivalent of one certified teacher.

(c) Determine whether a yearly average of teachers or a count taken at some point in time was used.

(d) Make sure kindergarten teachers and others who teach less than a full day are only counted in terms of their full-time equivalence.

(e) Make sure that teachers who divide their time among various schools (such as resource teachers or music teachers) are counted in each school for only that fraction of time they normally spend in the school. For instance, if a music teacher divides his time among five different schools weekly, spending the same day of each week at a particular school, he should be counted as one-fifth of a full-time equivalent teacher in each of thosefive schools.

(f) Make sure no federally-supported teachers are included.

Column 3, the average number of FTE other certified instructional staff

(a) Make sure that the proper types of people have been counted. Other certified instructional staff members include principals, consultants or supervisors, school librarians, audio-visual personnel, guidance personnel, psychological personnel, and television instructional personnel.

(b) Make sure the total reflects a yearly average rather than one point in time.

(c) Make sure personnel who work less than a full day are reported in terms of full-time equivalence.

(d) Make sure that people who divide their time between two different schools or two different jobs within a school (such as a person who teaches one-half day and counsels one-half day) are reported in terms of full-time equivalence.

(e) Make sure no federally-paid personnel are included.

Column 4, the average number of FTE non-certified instructional staff

(a) Make sure that the right group of people was counted. Those who are properly considered to be other non-certified instructional staff include secretaries, typists, clerks, teacher aides, library aides, paraprofessionals and others who directly assist professionals in instructional activities. Do not include maintenance and custodial personnel, cafeteria workers, bus drivers and others who do not directly assist professional instructional personnel.

(b) Determine whether this total is a yearly average or a point-in-time count.

(c) Many people in this category work only half a day. Make sure their services are reported in terms of full-time equivalence.

(d) People who divide their time between two or more schools should be recorded as serving the appropriate fraction of one full-time equivalent position in each school they serve.

(e) Federally-paid personnel should not be included.

Columns 5, 6, and 7: the pupil to staff ratios

(a) Check each ratio for division errors.

(b) Make sure that the non-Title I average was multiplied by 1.05 before comparing it to each Title I school's ratio (see Section II).

(c) Remember that no action is required for non-comparability with respect to ratio 2 (column 6) or ratio 3 (column 7) if the addition of less than one full-time equivalent staff member would make the ratio comparable (see Section II).

Column 8, amount expended for instructional salaries (including longevity)
Column 9, amount expended solely for longevity
Column 10, amount expended for instructional salaries less longevity
Column 11 (ratio 4), column 10 ÷ column 1

(a) Satisfy yourself that these totals only include the actual salaries of the personnel categories defined in columns 2, 3 and 4 and do not include those paid to maintenance and custodial personnel, cafeteria workers, bus drivers and others who either do not serve in instructional capacities or do not serve at a school. The standard OE account numbers which apply are shown in Appendix F, page 5, column 8; these accounts are described in the definition of "Instructional Salaries" in Appendix A.

(b) Make sure these columns represent amounts actually paid at each school to staff persons who were there the whole year rather than budget projections of amounts which would have been paid had the projected personnel been assigned to the school or remained there the entire year.

(c) Satisfy yourself that the salaries of personnel who serve at more than one school are pro-rated among the various schools they serve.

(d) For kindergarten teachers and others who work less than a full day, satisfy yourself that their actual salaries were totaled, instead of the salaries they would have received had they worked full-time.

(e) Make sure no federally-paid salaries are included.

(f) Make sure salary differences based on educational background (B.A., M.A., M.A. + 15 hours, etc.) have been included in all these columns but that those based upon longevity have been excluded from column 10.

(g) Make sure the indirect costs of instructional salaries (fringe benefits) have been included in column 8 but that the portion of those fringe benefits attributable to longevity has been excluded from column 10 (see Appendix F, page 5, column 8). In the OE Comparability Manual (Appendix F), fringe benefits are defined to include payments toward medical and health benefits, life insurance, workmen's compensation, retirement funds, etc. The size of some of these benefits depends upon a person's length of service. Consider the following two teachers:

	A Base Salary	B Base Fringe Benefits	C Salary Included in Comparability Report	D Longevity Pay	E Longevity Fringe Benefits	F Total Salary & Benefits (C+D+E = F)
Teacher A	7200	720	7920	2170	217	10307
Teacher B	7200	720	7920	0	0	7920

Teacher A and teacher B have equivalent educational backgrounds, so their base salaries are equal. However, teacher A has some years' experience while teacher B has no previous experience, so teacher A makes more money. When we consider fringe benefits, we see that teacher A gets more money in this regard as well, because payments to his retirement plan, among other items, increase with length of service. So we see two errors the LEA might have made: first, the LEA might have included the entire amount of fringe benefits (thus failing to exclude longevity); or second, the LEA might not have counted any fringe benefits (thus excluding fringe benefits not attributable to longevity). In many cases fringe benefits statistics are not available

at this level of detail.

(h) Make sure that the non-Title I schools' average for ratio 4 has been multiplied by 0.95 before comparing it with each Title I school (see Section II).

Column 12, the amount expended for other instructional costs
Column 13 (ratio 5), column 12 ÷ column 1

(a) Satisfy yourself that only authorized expenditures have been totaled. These include textbooks, school library books, periodicals, newspapers, audiovisual materials, other school library expenses, teaching supplies, miscellaneous expenses for instruction. The standard OE account numbers to be included are listed in Appendix F, page 6, column 12; these accounts are described in the definition of "Other Instructional Costs" in Appendix A. Satisfy yourself that no federal funds, such as from Title II, ESEA, have been included.

(b) Satisfy yourself that these columns include amounts actually spent, rather than amounts budgeted.

(c) Satisfy yourself that the amounts said to be spent at each school were spent there, rather than the per-school amounts being estimates based on the average per-pupil expenditure district-wide.

(d) Make sure the non-Title I schools' average for column 13 has been multiplied by 0.95 before comparing it to each Title I school (see Section II).

SECTION IV

SUMMARY OF BASIC TITLE I REQUIREMENTS

Title I requirements are found in three different sources. The requirements contained in the Act itself are listed in United States Code, Title 20, Section 241, et. seq. Additionally, the Commissioner of Education is empowered by the Act to establish "basic criteria" (20 U.S.C. 241e(a)) for approving project applications, and he issues these administrative rules in two forms: "Regulations" and "Program Guides."

The Regulations, which appear in the Code of Federal Regulations, Chapter 45, Section 116, are legally enforceable. The Program Guides are designed to treat certain standards of the Regulations in more detail, and there is some question as to their legal enforceability. In particular, while some of them purport to be "revised criteria" (cf. Program Guide #44, Appendix E), others appear to be suggestions which may not be legally binding. (This is discussed further in the section on legal issues.) Since most of the important standards are contained in the Regulations and are not significantly altered in the Program Guides, you may not need to rely on the Guides at all.

Comparability

The comparability regulations (Appendix D) are compactly contained in 45 C.F.R. 116.26 (and are based on more general language in 20 U.S.C. 241 e(a)(3)). Paragraph (a) of this regulation states the requirement to file a comparability report each year prior to July 1, beginning with 1971; Paragraphs (b) and (c) specify the details of the report; and, Paragraph (d) requires the withholding of funds for LEA's which are not comparable and have not submitted an adequate plan to become comparable.

Notice in Paragraph (d) that, (according to the "less than one" rule discussed in the previous section of this report) with respect to

certain pupil-personnel ratios, a school district need not take action to eliminate non-comparability if comparability would be achieved with the addition of less than one full-time staff member. In such a case, no funds will be withheld. Notice also in Paragraphs (e) and (f) that there are situations in which comparability reports are not required to be submitted.

The effect of these paragraphs and a proposed (but already practiced) rule (see Federal Register, September 15, 1971) to allow an LEA that has greater than a 30% incidence of poverty in each of its school attendance areas to make all its schools project schools (and thus eliminate the need for a comparability report) is to greatly reduce the number of LEA's which must submit reports, especially in rural areas. The state of Kentucky, for instance, includes 120 counties and a somewhat larger number of LEA's, but only 24 LEA's are required to submit reports.

OTHER REQUIREMENTS

The other Title I requirements are not so compactly located, and significant overlap exists. Therefore, to aid you in understanding them, we will present the significant requirements in the chronological order in which they would be considered by an LEA planning and implementing a Title I project, alluding to the various sources of the requirements as we go.

Selecting the Project Area

The first consideration in planning a Title I project is choosing the project areas. Only the areas in which the incidence of poverty, ranked by percentages of poor children or absolute numbers, is at least as high as the average for the whole district may be chosen, except if "no wide variation" exists among them, in which case all attendance areas are eligible (45 CFR 116.17 (d) and Program Guide #44, Section 1.1). (All CFR sections cited are reprinted in Appendix D and Program Guide #44 is reprinted in its entirety in Appendix E.)

The program should be conducted only in a limited number of attendance areas having the highest incidence of poverty (Program Guide 44, Section 4.6). Moreover, it should concentrate services on a limited number of children (45 CFR 116.17(c) and 116.18(e) and Program Guide 44, Section 4.7) so that in general, the services provided will be of "sufficient size, scope and quality to give reasonable promise" of success (20 USC 241e(a)(1)(B) and 45 CFR 116.18(a) and (e).

Selecting the Project

Having focused on a limited number of eligible children, the project must then identify and service the special needs of these educationally deprived children (20 USC 241e(a)(1)(A), 45 CFR 116.17 (a) and 116.18(b)), including private school children (20 USC 241e (a)(2), 45 CFR 116.19(a) and Program Guide 44, Section 4.5). These needs must be determined in consultation with all interested parties in the community (Program Guide 44, Section 2.1) and the activities must be provided in locations where the children can best be served (45 CFR 116.17(a) and Program Guide #44, Section 5.5). Lastly, parents must be actively involved, not only in the planning, but also in the implementation and evaluation of the program (45 CFR 116.17 (o) and Program Guide #44, Sections 2.1 and 5.4).

The project should be part of a comprehensive compensatory education program, using other federal and state monies where available and avoiding the use of Title I funds to duplicate programs which could be funded from other sources (45 CFR 116.24 and Program Guide 44, Section 3.1).

The project must be tailored to meet the special educational needs previously defined (45 CFR 116.17(g)), giving consideration to changing the regular school program so as to provide a better basis for the compensatory services of the project (Program Guide #44, Section 4.1).

In Service Training

In implementing a program, an LEA must provide for in-service training of the Title I staff (Program Guide #44, Section 5.2), including coordinated training programs for teachers and their aides (20 USC 241e(a)(12), 45 CFR 116.17(m) and Program Guide #44, Section 5.3).

Evaluating the Project

In meeting these special educational needs, the program must be based upon clearly stated objectives, amenable to evaluation (45 CFR 116.18(b) and Program Guide #44, Section 4.3) and designed to meet a limited number of high priority needs (Program Guide #44, Section 4.2). Consideration must be given to continuing the program during the summer months (Program Guide #44, Section 4.4).

Each Title I application must include a proposal for evaluating the program (20 USC 241e(a)(6) and Program Guide #44, Section 6.1) making an annual evaluation report (20 USC 241e(a)(7) and 45 CFR 116.22(a) and 23, and measuring the educational deprivation of the children at least annually (45 CFR 116.22(b)).

Disseminating Information

Additionally, each application must provide for the dissemination of Title I information to all interested citizens (20 USC 241e(a)(8), 45 CFR 116.17(n) and Program Guide #44, Section 5.8), including whatever LEA records are necessary to plan, operate and evaluate the program.

Supplanting

Title I funds must be used to supplement, not supplant state and local funds (45 CFR 116.17(h) and Program Guide #44, Section 7.1). In support of this requirement, no funds may be paid to an LEA whose combined state and local "fiscal effort" decreases from one year to the next (20 USC 241 g(c)(2) and 45 CFR 116.45).

Construction

Title I funds may be used for construction only when it is essential to meet the highest priority needs of educationally deprived children (45 CFR 116.17(i) and Program Guide #44, Section 5.7), and in no case will they be used for construction which promotes cultural or linguistic isolation (45 CFR 116.21(f)).

Equipment

Only necessary equipment may be bought with Title I monies (45 CFR 116.53(c)(7) and Program Guide #44, Section 5.6), and all equipment in personal custody or greater than $100 in value shall be inventoried periodically (45 CFR 116.55). Equipment may be loaned to private schools but only temporarily (45 CFR 116.20(b)).

Responsibilities of the State Agency

The states' responsibilities for Title I administration include the following: approving LEA grant applications (45 CFR 116.34), ensuring that LEA's follow the law (45 CFR 116.31(c)), ensuring that proper fiscal control of SEA and LEA Title I funds is maintained (45 CFR 116.31(d)), submitting periodic evaluation reports, citing LEA's objective evaluations (45 CFR 116.3.(f)), and reporting to the Commissioner of Education all findings concerning complaints containing "allegations of substance" about Title I (45 CFR 116.31(g) and Program Guide #70).

FOOTNOTES

1. Report on Review of the Implementation of Comparability Provisions, Public Law 91-230, p. 7, HEW Audit Agency.

2. See Title I Comparability: A Preliminary Evaluation, Lawyers' Committee for Civil Rights Under Law, School Finance Project, September, 1972.

3. 45 CFR 116.26(c)(1)

4. 45 CFR 116.26(c)(2)

5. 45 CFR 116.26(c)(3)

6. 45 CFR 116.26(c)(4)

7. 45 CFR 116.26(c)(5)

8. 45 CFR 116.26(d)(2)

9. OE Advisory Statement on Development of Policy on Comparability from T.H. Bell, Acting U.S. Commissioner of Education, September 18, 1970.

10. See, HEW Audit, p. 57, note 1 supra.

11. Ibid., p. 56.

12. Ibid., p. 17.

13. Ibid., p. 34.

14. Ibid., p. 10

APPENDIX A

DEFINITIONS

ACCURACY - Freedom from mistakes or errors, careful and exact.

ATTENDANCE AREA - The geographic area which is served by a school.

AVERAGE DAILY ATTENDANCE (ADA) - Arithmetic mean of the number of pupils present each day in an attendance unit or school district for a specified period. It is obtained by dividing the aggregate number of school days all pupils are in attendance, by the number of days school is in session during the same period. Example: pupil A attends 15 days; pupil B, 20 days; pupil C, 20 days; pupil D, 20 days; and pupil E, 1 day; equaling an aggregate attendance of 76 days. If school is in session for 22 days, the average daily attendance is $\frac{76}{22}$ or 3.5 pupils in ADA.

AVERAGE DAILY MEMBERSHIP (ADM) - Arithmetic mean of the number of pupils carried on the active rolls of an attendance unit or school district for a specified period. It is obtained by dividing the aggregate number of school days all pupils are on the active roll, by the number of days school is in session during the same period. Example: Pupil A is on the active roll 15 days; pupil B, 15 days; pupil C, 22 days; pupil D, 22 days; pupil E, 22 days; pupil F, 2 days; equaling an aggregate membership of 98 days. If school is in session for 22 days; the average daily membership is $\frac{98}{22}$ or 4.45 pupils in ADM.

BUDGET - A plan of financial operation embodying an estimate of proposed expenditures for a given period or purpose and the proposed means of financing them. (A line item budget breaks down proposed expenditures into specific categories or accounts.)

CERTIFIED CLASSROOM TEACHERS - Regular classroom teachers, including teachers of special classes such as art, music, physical education, teachers of exceptional children, teachers of homebound and long-term substitute teachers.

COMPARABILITY - In a local education agency (LEA), the requirement that services, taken as a whole, to be provided with state and local funds in each of the school attendance areas to be served by a project under Title I of the Elementary and Secondary Education Act be at least comparable (i.e. equivalent or similar) to the services being provided in the school attendance areas of the LEA which are not to be served by a project under Title I.

CONCENTRATION OF FUNDS - The requirement that Title I funds be used for a limited number of children most in need of assistance.

EDUCATIONALLY DEPRIVED CHILDREN - Children who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age. The term includes children who are handicapped or whose needs for such special educational assistance result from poverty, neglect, delinquency, or cultural or linguistic isolation from the community at large.

FRINGE BENEFITS - Those benefits that are made available to employees as remuneration for their services and that are beyond the direct payments of wages and salaries. Fringe benefits include medical and health benefits, life insurance, workmen's compensation, retirement funds, etc.

FULL-TIME EQUIVALENCE (FTE) - The amount of employed time required on a part-time position expressed in proportion to that required in a full-time position, with "1" representing one full-time position. It may be expressed as a percentage or as a fraction. It is derived by dividing the amount of employed time required in the part-time position by the amount of employed time required in a corresponding full-time position. When expressed as a percentage, it should be to the nearest tenth.

GENERAL AID - A situation in which Title I money is used to support services and programs for the entire school district rather than the Title I - eligible schools alone.

HIGH CONCENTRATION OF POVERTY - The state of having, in a geographic attendance area, a percentage or absolute number of children from low-income families equal to or greater than the average percentage or average number for the entire school district.

INSTRUCTIONAL SALARIES - Salaries paid instructional staff directly and the indirect payroll expenses incurred by a local educational agency because of the employment of an instructional staff member. This definition does not include amounts paid for longevity. (Instructional salaries can also be defined as the following expenditure accounts from Handbook II, Financial Accounting for Local and State School Systems: 211, 212, 213, 214a, 214b, 214c, 214d, 214e, 215a, 215b, 215c, 215d, 216, 810a, 810b, 810c and 820b. Handbook II's description of what should be included in each of these accounts is as follows:

INSTRUCTION

200 Series

INSTRUCTION consists of those activities dealing directly with or aiding in the teaching of students or improving the quality of teaching. These are the activities of the teacher, principal, consultant or supervisor of instruction, and guidance and psychological personnel.

Any expenditures for supplementary educational media, such as educational radio or television, are recorded under the appropriate functional accounts in the same manner as for any other activity of the school district. That is, expenditures for instructional aspects are recorded under the 200 Series, INSTRUCTION, expenditures for plant operational aspects under the 600 Series, OPERATION OF PLANT, etc.

Expenditures for student-body activities are not recorded under the 200 Series, INSTRUCTION; they are recorded under the 1000 Series, STUDENT-BODY ACTIVITIES. (*See* STUDENT-BODY ACTIVITIES in Glossary.) Expenditures for recreational activities which are not considered part of the regular instructional program or student-body activity program are recorded under COMMUNITY SERVICES, account 1110, RECREATION.

210. SALARIES FOR INSTRUCTION

211. *SALARIES OF PRINCIPALS*

The full-time salaries and prorated portions of salaries of principals, assistant principals, and other such personnel performing the function of a principal. Salaries of teaching principals are prorated to this account in proportion to the time devoted to the coordination and supervision of the activities of the school. When teachers or other instructional staff are assigned administrative duties usually performed by the principal or assistant principal and given extra pay for these duties, the salaries for these extra services are also recorded here. Salary of a principal who performs the full-time administrative functions of a superintendent is not recorded here; it is recorded under account 110–g, Salaries for the Superintendent's Office. Salary of a principal who also performs the duties of a superintendent is prorated between this account, 211, and account 110–g.

212. ***SALARIES OF CONSULTANTS OR SUPERVISORS OF INSTRUCTION***

The full-time salaries and prorated portions of salaries for services rendered as general or subject consultants or supervisors of instruction, including consultants or supervisors of school libraries and of audiovisual education, regardless of where their offices may be located. Expenditures for outside consultative services hired in connection with the instructional program are not recorded here; they are recorded under account 250–c, Miscellaneous Expenses for Instruction. Salaries of personnel who have the title, "supervisor," but administer some activity, such as supervisor of transportation, supervisor of food services, etc., are not recorded here; they are recorded under the 500 Series, PUPIL TRANSPORTATION, the 900 Series, FOOD SERVICES, etc.

213. ***SALARIES OF TEACHERS***

The full-time salaries and prorated portions of salaries for all teaching services rendered to pupils or students in the public schools, including the salaries of teachers of special classes, teachers of exceptional children, teachers of the homebound, and substitute teachers. If department heads devote time to both supervision of instruction and teaching, their salaries are prorated between this account and 212, SALARIES OF CONSULTANTS OR SUPERVISORS OF INSTRUCTION. School districts may wish to keep subaccounts under 213 for various types of teachers' salaries.

214. ***SALARIES OF OTHER INSTRUCTIONAL STAFF***

214–a. ***Salaries of School Librarians.***—The full-time salaries and prorated portions of salaries for services rendered as public-school librarians, excluding audiovisual personnel. Salaries of consultants, supervisors, or directors of school libraries are not recorded here; they are recorded under account 212, SALARIES OF CONSULTANTS OR SUPERVISORS OF INSTRUCTION.

214–b. ***Salaries of Audiovisual Personnel.***—The full-time salaries and prorated portions of salaries of audiovisual personnel. Salaries of consultants or supervisors of audiovisual education, and television instructional personnel are not recorded under this account; they are recorded under account 212, SALARIES OF CONSULTANTS OR SUPERVISORS OF INSTRUCTION, and 214–e, Salaries of Television Instructional Personnel, respectively.

214–c. *Salaries of Guidance Personnel.*—The full-time salaries and prorated portions of salaries for guidance services rendered to pupils or students in the public schools by personnel who have been assigned specific duties and school time to carry on recognized functions of the guidance program in whole or part.

214–d. *Salaries of Psychological Personnel.*—The full-time salaries and prorated portions of salaries for psychological services rendered to pupils or students in the public schools by psychologists and psychometrists. Salaries of psychiatrists and psychiatric social workers are not recorded here; they are recorded under account 410–a, Salaries for Professional and Technical Health Personnel.

214–e. *Salaries of Television Instructional Personnel.*—The full-time salaries and prorated portions of salaries of personnel on the school district payroll who provide educational experiences through the medium of television.

215. *SALARIES OF SECRETARIAL AND CLERICAL ASSISTANTS*

215–a. *Salaries for Secretarial and Clerical Services for the Principal's Office.*—This includes salaries for such services for principals and assistant principals.

215–b. *Salaries for Secretarial and Clerical Services for Consultants or Supervisors of Instruction.*

215–c. *Salaries for Secretarial and Clerical Services for Teachers.*

215–d. *Salaries for Secretarial and Clerical Services for Other Instructional Staff.*—This includes salaries for such services for school librarians, audio-visual personnel, guidance personnel, psychological personnel, and other such instructional staff.

216. *OTHER SALARIES FOR INSTRUCTION*

The full-time salaries and prorated portions of salaries for any assistants or aides to instructional staff other than secretarial and clerical personnel.

810. SCHOOL DISTRICT CONTRIBUTIONS TO EMPLOYEE RETIREMENT

810–a. *State, County, or Local Retirement Funds.*—All expenditures by the school district to funds which have been established by the State, county, local school district, or municipality, and have been built up through contributions from participants and other sources for the purpose of making payments (either on an annuity basis or in lump sum) to those who retire from service in the educational system by reason of age, disability, or length of service. Employees' salary deductions for retirement funds are recorded under the appropriate salary accounts.

810–b. *Social Security.*—All expenditures by the school district to social security. Employees' salary deductions for social security are recorded under the appropriate salary accounts.

810–c. *Pension Payments.*—All expenditures for pensions paid directly to individuals from appropriations or to a pension fund. A pension system is a free retirement plan whereby persons leaving service in the educational system because of age, disability, or length of service receive payments (either in a lump sum or in the form of an annuity) from funds to which they have not contributed.

820. INSURANCE AND JUDGMENTS

If the school district is on the cash basis of accounting, a total premium payment is recorded under this account, regardless of whether or not it applies beyond the current fiscal year.

If the school district is on the accrual basis of accounting, only the part of the premium applicable to the current fiscal year is recorded under this account. Clearing Account 1530, PREPAID INSURANCE PREMIUMS, is used to record the part of the premium applicable beyond the current fiscal year. See the definition of account 1530 for the treatment in this case.

* * *

820–b. *Employee Insurance.*—Expenditures for life insurance coverage of employees, workmen's compensation, contributions to any State fund for injured employees, and any other sickness or accident coverage of personnel employed by the school district. Also recorded here are any expenditures (not judgments) made in lieu of employee insurance.

INSTRUCTIONAL STAFF - Principals, consultants, supervisors, teachers, school librarians, audiovisual, guidance, psychological and television instructional personnel, secretarial and clerical assistants, and paraprofessional staff, such as teacher aides and student teachers.

LOCAL EDUCATION AGENCY - A public board of education (and its staff) legally constituted within a state responsible for administrative control and direction of public elementary or secondary schools in a city, county, school district or other political subdivision of the State.

LONGEVITY - Length of instructional service in the school system.

NON-CERTIFIED INSTRUCTIONAL STAFF - Secretarial and clerical services for the following certified instructional positions: consultant, supervisors, teacher, school librarian, audio-visual personnel, guidance personnel, psychological personnel or other such instructional staff. Also included are any other aides to instructional staff, e.g. paraprofessionals or student teacher.

NON-TITLE I SCHOOLS - Schools of a local educational agency which serve attendance areas not receiving Title I funds.

OTHER CERTIFIED INSTRUCTIONAL STAFF - Principals, consultants or supervisors of instruction, school librarians, audio-visual personnel, guidance personnel, psychological personnel, and television instructional personnel.

OTHER INSTRUCTIONAL COSTS - Expenses for textbooks, school library books, periodicals, and audio-visual materials, other school library expenses, teaching supplies, miscellaneous supplies for instruction, travel expenses for instruction, and miscellaneous expenses for instruction. ("Other instructional costs" can also be defined as the following expenditure accounts from Handbook II, Financial Accounting for Local and State School Systems: 220 230a, 230b, 230c, 230d, 240, 250a, 250b, and 250c. Handbook II's description of what should be included in each of these accounts is as follows:

220. TEXTBOOKS

Expenditures for textbooks furnished free to all public school pupils or furnished free to certain grades or classes, binding and other textbook repairs, and freight and cartage of textbooks. If textbooks are purchased and resold or rented to students, only the net cost to the school district is recorded here. For example, if the school district purchased some textbooks at a cost of $100, and in turn sold these same textbooks to students for a total sum of $90, only $10 would be recorded here. Any net profits realized from the sale or rental of textbooks are recorded under account 14–c, Net Receipts from Revolving Funds or Clearing Accounts. (For further information on textbooks purchased for resale, *see* account 1830, TEXTBOOKS.) Expenditures for textbooks furnished free to indigent pupils only are not recorded here; they are recorded under account 1150–b, Other Expenses for Welfare Activities.

230. SCHOOL LIBRARIES AND AUDIOVISUAL MATERIALS

230–a. ***School Library Books.***—Expenditures for regular or incidental purchases of school library books available for general use by students, including any reference books, even though such reference books may be used solely in the classroom. Also recorded here are costs of binding or other repairs to school library books, and freight and cartage for school library books. The original purchase of books for a new school library or any material accessions involving an expansion of the library are recorded under CAPITAL OUTLAY account 1230–c, Equipment for Instruction. Expenditures for books for a general public library are not recorded here; they are recorded under account 1130–b, Books, Periodicals, and Newspapers for Public Libraries.

230–b. ***Periodicals and Newspapers.***—Expenditures for periodicals and newspapers for general use by the school library. A periodical is any publication appearing at regular intervals of less than a year and continuing for an indefinite period. Expenditures for periodicals for a general public library are not recorded here; they are recorded under account 1130–b, Books, Periodicals, and Newspapers for Public Libraries.

230–c. ***Audiovisual Materials.***—Expenditures for audiovisual materials (not equipment) used in the instructional program, such as films, filmstrips, recordings, exhibits, charts, maps, and television and radio materials, including the rental of such materials. Expenditures for the rental of instructional equipment are recorded under account 250–c, Miscellaneous Expenses for Instruction. Expenditures for audiovisual materials for a general public library are not recorded here; they are recorded under account 1130–c, Other Expenses for Public Libraries.

230–d. *Other School Library Expenses.*—Expenditures for library services to public schools in lieu of maintaining a school library, and for school library supplies such as paper, pencils, index cards, and other office supplies. Expenditures for library books, periodicals and newspapers, and audiovisual materials are not recorded here; they are recorded under account 230–a, School Library Books, 230–b, Periodicals and Newspapers, and 230–c, Audiovisual Materials, respectively. Payments to other school districts are not recorded here; they are recorded under the OUTGOING TRANSFER ACCOUNTS, Series 1400.

240. TEACHING SUPPLIES

Expenditures for all supplies which are actually or constructively consumed in the teaching-learning process, including freight and cartage on them. Some examples of these supplies are: Tests, chalk, paper, test tubes, ink, pencils, paints, paintbrushes, crayons, chemicals, shop supplies for vocational education, oils, cleaners, food for the instructional program, instructional farming supplies, music supplies, supplies for the operation of equipment used in the teaching-learning process, work books, physical education supplies, materials for instruction by correspondence, printing of classroom materials, and magazines and periodicals for classroom use. If such supplies are handled for resale to students, only the net cost of such supplies is recorded here (*see* Clearing Account 1820, MATERIALS FOR RESALE). Expenditures for audiovisual supplies are not recorded here; they are recorded under account 230–c, Audiovisual Materials. Expenditures for utilities and the maintenance of equipment and apparatus are not recorded here; they are recorded under the 600 Series, OPERATION OF PLANT, and the 700 Series, MAINTENANCE OF PLANT, respectively. Expenditures for supplies for student-body activities are not recorded here; they are recorded under account 1020, OTHER EXPENSES FOR STUDENT-BODY ACTIVITIES, or 1030, PAYMENTS TO COVER DEFICITS OF STUDENT-BODY ACTIVITIES FUNDS OR ACCOUNTS. (*See* STUDENT-BODY ACTIVITIES in Glossary.)

250. OTHER EXPENSES FOR INSTRUCTION

250–a. *Miscellaneous Supplies for Instruction.*—Expenditures for supplies used in the instructional program but which are not consumed in the actual teaching-learning process, including freight and cartage for them. Examples of these supplies are: Office supplies, cur-

riculum supplies, professional books and subscriptions for the instructional staff, supplies for school exhibits, supplies for in-service training of instructional staff, and supplies for the operation of equipment such as ribbons for typewriters in the principal's office, and gasoline and oil for vehicles assigned to instructional personnel. Expenditures for gas and oil for driver education vehicles, school library supplies, and graduation expenses are not recorded here; they are recorded under account 240, TEACHING SUPPLIES, account 230–d, Other School Library Expenses, and account 250–c, Miscellaneous Expenses for Instruction, respectively.

250–b. ***Travel Expenses for Instruction.***—Expenditures for the travel of all instructional personnel and their assistants, including travel in connection with the everyday instructional activities and travel to conventions, meetings, institutes, and workshops. Expenditures for the maintenance of district-owned vehicles assigned for use by instructional personnel are recorded under the 700 Series, MAINTENANCE OF PLANT; expenditures for supplies used in the operation of such vehicles are recorded under account 250–a, Miscellaneous Supplies for Instruction.

250–c. ***Miscellaneous Expenses for Instruction.***—Miscellaneous expenditures incurred for the instructional program for such things as: Rental of equipment, contracted services for instruction by correspondence, graduation expenses, assembly speakers, membership dues in associations for instructional personnel, and outside consultative services hired in connection with the instructional program. Tuition, transportation, and other payments to other school districts, and tuition to nonpublic schools (if any) are not recorded here; they are recorded under the OUTGOING TRANSFER ACCOUNTS, Series 1400. Expenditures for plant operation and plant maintenance items are not recorded here; they are recorded under the 600 Series, OPERATION OF PLANT, and the 700 Series, MAINTENANCE OF PLANT, respectively. Expenditures for student-body activities are recorded under the 1000 Series, STUDENT-BODY ACTIVITIES.

POINT-IN-TIME DATA - Factual material compiled or counted on a particular date, e.g. the number of pupils at a school on October 1.

PROJECT AREA - Is an eligible attendance area that has been chosen by the LEA to be a participating area for a Title I program.

STATE EDUCATION AGENCY (SEA) - The organizations established by law for the primary purpose of carrying out a part of the educational responsibilities of the State. They are characterized by having statewide jurisdiction and may be composed of a State board, chief executive officer, and staff. Some State education agencies may lack one or two of these three elements, but in any case there must be either a board or a chief executive officer.

STATE AND LOCAL FUNDS - Monies collected and distributed by state and local governments. For Title I purposes, these include Federal "impact aid" funds paid from Public Law 81-874.

SUPPLEMENTING - Using Title I funds to add to, rather than take the place of, State and local funds.

SUPPLANTING - The use of Title I funds to support educational services which either have been or are now supported by State and local funds.

TITLE I SCHOOL - A school which serves attendance areas designated by the local educational agency as project areas to receive Title I services.

VALIDITY - The quality of being supported by objective truth. For data-gathering purposes, valid data is data which has counted all items of the class in question and no items of any other classes, which has been compiled without error and which has not been misinterpreted as to the manner in which it was counted or compiled.

APPENDIX B

Table of Contents

Explanatory Note . . . . . B- 2

1. Comparability Report and Comparability Plan . . . . . B- 4

2. Supporting Documents for the Comparability Report . . . . . B- 6

3. Budget and Expenditure Reports . . . . . B- 6

4. Instructional Personnel Audit List . . . . . B- 9

5. Salary Schedule B-12

6. Annual Statistical Report B-14

7. Annual Financial Report B-15

8. ADM/ADA Annual Report B-18

9. HEW/OCR Directory B-20

10. Desegregation Report B-24

11. Personnel Directory B-24

12. Title I Project Application B-26

13. Reports Made by Local School Boards to the State Educational Agency . . B-39

14. Other Federal Project Applications or Federal Projects' Summary . . . B-47

15. Miscellaneous Sources B-51

Explanatory Note

This Appendix contains an explanatory list of sources that can be useful for checking the accuracy of a school district's comparability report. The basic procedure for making this check is explained in section III of the Comparability Manual. Bear in mind that all of the sources described here are not likely to be available or useful for every school district.

Many of these sources can provide more than one type of information. For example, from an instructional personnel audit or payroll list both the number of teachers at a school and their salaries can be obtained.

You are likely to find that the data sources available for your school district do not collect or display data in the same manner as is required for the comparability report. However, so long as you can determine how the figures in a source differ from the comparability data, the source will be useful for your check. Sometimes it is only possible to determine in a general way how a source differs. Such sources still can be useful. For example, you know that a particular source of pupil data should list more pupils than the comparability report (e.g., because each half-day kindergarten pupil is counted as one pupil rather than as one-half of a pupil), but you do not know to what extent its figures are higher. If contrary to expectation more pupils are shown on the comparability report, and this higher figure makes more Title I schools comparable, then you probably have reason to suspect the pupil totals reported for comparability. Even sources that give only district-wide totals rather than school-by-school figures can be somewhat useful for comparisons since the totals of the various comparability report columns, adding up all Title I and non-Title I schools, should be the same as these district totals - if the same criteria have been used.

One final note. The list of source documents displayed in this Appendix is not exhaustive. It represents only those items we were able to find in checking two school districts. Thus, it is not unlikely that you will find additional sources in your district with which to check your comparability report. If you do find such sources, we would appreciate receiving sample copies for inclusion in later editions of this manual.

1. Comparability Report and Comparability Plan

Significance

These sources are the foundation of all your remaining research. The non-comparability evidenced in the comparability report is a given, and no further proof of its existence is required.

Description

The comparability report has already been described in Section II. In addition to the report, a comparability plan is required to be submitted at the same time (each July 1, beginning in 1971) if the comparability report shows any schools to be non-comparable. 45 C.F.R. §11626(d). The plan should include specific staffing and budget changes to correct each case of non-comparability.

Use

After analyzing your own district's comparability report as we did in Section II, you should review the district's comparability plan to determine if it is adequate. In the comparability plan shown on page B5, a statement such as the one for column 5, "a staffing plan for professionals has been initiated city-wide to assure equitable ratios of pupils to classroom teachers" is not adequate because it mentions no specific changes. The column 6 discussion does describe specific funding changes and is better. (Notice, however, that while the school system admits to supplanting guidance counselors and librarians, it intends to continue supplanting librarians until "funds permit" a change.)

LOUISVILLE PUBLIC SCHOOLS

506 West Hill Street, Louisville, Ky. 40208 Area Code 502-634-3611

RECEIVED

JUL 28 1971

Title I, ESEA
BUREAU OF STATE
AND FEDERAL RELATIONS
DEPARTMENT OF EDUCATION
FRANKFORT, KENTUCKY

July 23, 1971

Mr. Lawrence M. Stamper
Assistant Director, Title I, E.S.E.A.
Department of Education
Frankfort, Kentucky 40601

Dear Mr. Stamper:

Please accept the following as our plans for eliminating the discrepancies noted in the comparability data filed with your office on June 2, 1971:

Column 5: A staffing plan for professionals has been initiated city wide to assure equitable ratios of pupils to classroom teachers.

Column 6: At Parkland Junior High School and Woerner Junior High School, two guidance positions previously paid for with Title I funds will be charged to State and local sources. Engelhard will have a full time principal which will reduce the ratio for that school. Ratios which exceed the allowable deviations at Brandeis, Breckinridge, Carmichael, Clay, Cochran, Engelhard, Kennedy, Lincoln, Parkland, Perry, Roosevelt, Southwick, Strother, Tingley, Washington and Wheatley reflect inadequate support from State and local funds to fully implement a city wide elementary library program started under Title I of E.S.E.A. For the 1971-72 school year four one-half time librarian positions at Lincoln, Parkland, Perry and Roosevelt will be transferred to the general fund. Each subsequent year at least four and more if funds permit will be transferred.

Column 9: Ratio of pupil to non-certified instructional staff was corrected at Parkland Junior High, Russell Junior High and Shawnee Junior High at the beginning of the 1970-71 school year. Since non-certified

2. Supporting Documents for the Comparability Report

Significance

The comparability report supporting documents provide the reference point necessary for comparing all other available sources and methods of computation.

Description

When your school district went about the task of compiling its comparability report, it might have kept its findings together in one place. This would be a most sensible approach to follow in that a statement of conclusions would be rather meaningless without supporting documents. These should include school-by-school expenditure summaries and a list of teachers' names and salaries.

Use

Identifying the sources your LEA used to prepare its comparability report allows you to make an analysis of the validity of those sources and the methods used to compile the report. The requirements for sources and computational methods used in comparability reports are discussed in Section III. Identifying the particular sources your LEA used will provide a reference point for further analysis.

3. Budget and Expenditure Reports

Significance

A well-captioned school-by-school budget or expenditure report may contain all the information needed to compile a comparability report.

Description

Traditionally, a budget is an estimate of the costs and revenues in operating a given institution for a predetermined period of time,

usually one year. In practice, school districts usually have three financial documents an "estimated" or "proposed" budget, an "approved" or "close estimate" budget, and a historical summary of what actually occured, which is variously called the "budget summary" or the "final report." These three documents would occur in time approximately as follows: a "proposed" budget might be submitted to a school board in January before the school year in question, that document would be altered and finally voted upon as the approved budget in May, it would be in effect from July 1 to the following June 30, and a final report would be made a few months later. Since we are interested in knowing exactly how money was spent by an LEA rather than how it was intended to be spent, the budget summary or final report is the only financial document which concerns us.

Budgets can also be organized by their purposes. The "general fund" budget pays for the operation of the school district, a "special building fund" budget finances school construction, and each special state or federal program has a separate budget as well.

Use

In order to determine comparability, it is necessary to know the expenditures and the number of personnel for each individual school for a particular fiscal year. The most important consideration for our purposes, then, is whether your district's budget summary covers a fiscal year or a calendar year. If the budget covers a particular calendar year, it is of little use in checking comparability statistics. If the budget is done on a fiscal year basis, the second important consideration is whether your district's budget itemizes expenditures on a school-by-school basis.

If your district does account on a school-by-school basis, however, the general fund budget summary is the easiest source to use you will find. The example on page B-8 shows part of the fiscal year 1972 budget for one elementary school in Louisville, Kentucky. The bracket marked "1"

TITLE - DESCRIPTION	F D	P G	LOC	ACCOUNT NUM.	CURRENT MO. EXPENDITURE	BUDGET FOR 1971-1972	Y-T-D EXPENDITURE		OUTSTANDING ENCUMBRANCE	UNENCUMBERED BALANCE
ALARIES-ELEMENTARY PRINCIPALS	1-01	301		0212-01-0000	1,049.28	14,649.66	14,768.99	**	.00	119.33-
ALARIES-ELEMENTARY TEACHERS	1-01	301		0215-00-0000	6,480.95	105,631.95	102,666.61	**	.00	2,965.34
ALARIES-ELEMENTARY LIBRARIAN	1-01	301		0216-02-0000	883.44	11,619.88	2,373.48		.00	9,246.40
ALARIES-KINDERGARTEN TEACHERS	1-01	301		0218-00-0000	856.06	11,619.88	11,617.94	**	.00	1.94
ALARIES-ELEM SUB TEACHERS SICK LEAVE	1-01	301		0223-02-0000	76.00	2,249.00	3,602.00	**	.00	1,353.00-
ALARIES-SEC SUB TEACHERS, OTHER	1-01	301		0224-01-0000	.00		84.00		.00	84.00-
ALARIES-ELEM SUB TEACHERS, OTHER	1-01	301		0224-02-0000	.00	235.00	245.00	**	.00	10.00-
ALARIES-SECRETARIES & CLERICAL ASSIS	1-01	301		0225-01-0000	575.93	7,498.65	5,826.63		.00	1,672.02
EMENTARY LIBRARY BOOKS-REG PROGRAM	1-01	301		0252-01-0000	173.44	474.00	473.02	**	.00	.98
EM PERIODICALS & NEWSPAPERS-REG PRO	1-01	301		0254-01-0000	.00	75.00	10.50		.00	64.50
EM AUDIO-VISUAL MAT-REG PROG	1-01	301		0258-01-0000	.00	132.00	149.66	**	.00	17.66-
EM SUPPLEMENTARY BOOKS-REG PROG	1-01	301		0264-01-0000	.00	406.00	101.38		.00	304.62
EM TEACH SUPP-REGULAR PROGRAM	1-01	301		0266-01-0000	.00	594.00	1,170.81	**	.00	576.81-
FFICE SUPPLIES-ELEM AND SECONDARY	1-01	301		0266-11-0000	.00	120.00	79.33		.00	40.67
THER EXPENSES-MISCELLANEOUS	1-01	301		0453-00-0000	.00		.60		.00	.60-
ALARIES-PLANT ENG & BLDG SUPERVISORS	1-01	301		0611-00-0000	606.90	6,640.65	6,267.08	**	.00	373.57
ALARIES-CUSTODIAL	1-01	301		0612-00-0000	319.60	3,833.21	1,477.91		.00	2,355.30
ALARIES-OTHER OPER STAFF (DIST SUPV.	1-01	301		0613-00-0000	.00		8.48		.00	8.48-
ALARIES-OVERTIME	1-01	301		0616-00-0000	38.42		254.65		.00	254.65-
ONTRACTUAL SERVICES-ADT	1-01	301		0633-00-0000	10.08	120.00	120.96	**	.00	.96-
ONTRACTUAL SERVICES-PEST EXTERMINATO	1-01	301		0634-00-0000	2.68	32.00	26.80	*	.00	5.20
TILITIES-GAS	1-01	301		0652-00-0000	40.99	1,399.00	1,152.96	*	.00	246.04
TILITIES-ELECTRICITY-LIGHTS	1-01	301		0653-01-0000	120.37	1,100.00	1,551.58	**	.00	451.58-
ELEPHONE-LOCAL	1-01	301		0655-01-0000	27.13	264.00	278.95	**	.00	14.95-
ELEPHONE-LONG DISTANCE	1-01	301		0655-02-0000		25.00				25.00
TILITIES-OTHER (FUEL OIL)	1-01	301		0656-00-0000	.00	30.00	45.40	**	.00	15.40-
UPPLIES-CUSTODIAL	1-01	301		0657-01-0000	.00	539.00	321.90		.00	217.10
XPENSE-MISCELLANEOUS	1-01	301		0659-00-0000	.00		23.50		.00	23.50-
ALARIES-GROUNDS	1-01	301		0711-01-0000	44.97		599.54		.00	599.54-
ALARIES-BUILDINGS	1-01	301		0711-02-0000	123.03		2,228.81		.00	2,228.81-
ALARIES-OVERTIME	1-01	301		0711-03-0000	.00		91.80		.00	91.80-
ALARIES-EQUIPMENT SUPERVISORS	1-01	301		0712-01-0000	.00		26.40		.00	26.40-
ALARIES-FURN. & EQUIP.- AUDIO-VISUAL	1-01	301		0713-01-0000	13.00		42.60		.00	42.60-
ONTRACTUAL SVCS-FURN & EQUIP-MUSIC	1-01	301		0733-05-0000	.00		53.00		.00	53.00-
ONTRACT. SVCS-FURN & EQUIP-CLASSROOM	1-01	301		0733-08-0000	23.85	75.00	157.35	**	.00	82.35-
ONTRACTUAL SVCS-FURN & EQUIP-ADM	1-01	301		0733-09-0000	.00		2.04		.00	2.04-
LANT MAINT-BUILDINGS SUPPLIES	1-01	301		0751-00-0000	45.26	500.00	594.30	**	.00	94.30-
LANT MAINT-GROUNDS SUPPLIES	1-01	301		0752-00-0000	.00		23.99		.00	23.99-
LANT MAINT-FURN & EQUIP-AUDIO-VISUAL	1-01	301		0753-01-0000	.00		10.82		.00	10.82-
LANT MAINT-FURN & EQUIP-OTHER CLASS	1-01	301		0753-08-0000		150.00				150.00
QUIP-ORIG OR ADD-INSTRUCT. (REG PROG)	1-01	301		1272-00-0000	.00		332.12		.00	332.12-
QUIP-ORIG OR ADD-OTHER	1-01	301		1275-00-0000	127.10		509.85		.00	509.85-
PROGRAM TOTAL	*				11,913.48	170,012.88	159,372.74		.00	10,640.14
PROGRAM TOTAL	*				.00	.00	.00		.00	.00
LEMENTARY LIBRARY BOOKS-ESEA TITLE II	1-18	301		0252-03-0007	195.53		313.25		.00	313.25-
LEM AUD-V MAT-ESEA TITLE II	1-18	301		0258-03-0007	.00		204.90		208.50	413.40-
LEM SUPPL TARY BOOKS-ESEA TITLE II	1-18	301		0264-03-0007	.40		114.76		.00	114.76-
PROGRAM TOTAL	*				195.93	.00	632.91		208.50	841.41-

comprises column 8 on the comparability report, the total instructional salaries. The bracket marked "2" makes up column 12, other instructional costs. At the bottom of the page the budget for Title II of the Elementary and Secondary Education Act, another federal program, begins. Some school districts, however, do not segregate federal funds in individual school budgets. Be careful of this.

If your district does not budget on a school-by-school basis, then all the expenditure totals in columns 8 through 13 are suspect. These figures might be estimates rather than actual expenditures. Or comparability data may have been compiled from payroll records. In any case determine whether your district accounts on a school-by-school basis, even though the budget is not in this form. If your district does account on a school-by-school basis ask for this accounting and use it in the same manner you would have used the budget.

A different use of a school-by-school budget summary is to check for instances of supplanting. For example, if the general fund budget pays for librarians in non-Title I schools but not in the project schools, the district is almost certainly supplanting, and a look at the Title I budget to see whether or not Title I pays for the librarians in project schools will decide the question.

4. Instructional Personnel Audit List

Significance

This source provides the most straight-forward analysis available fo columns 2 through 4 and 8 through 10 of the comparability report.

Description

Because of the requirement that longevity pay be excluded from comparability computations, many school districts have compiled a

"personnel audit" report solely to satisfy this requirement. One particularly good example of such a report is shown on page B-11 concerning the teachers at one high school in Louisville, Kentucky. The last column on the right gives the longevity salary for each teacher. The column named "STD BASE" tells the yearly salary at which the teacher was hired (minus longevity), while the column marked "BASE SAL" shows the amount that teacher was actually paid over the year (also minus longevity). Now, if a person taught the whole year at one school, these two figures should be about the same. Teacher Evans, who is first on the list, was paid $7,241 on a contract salary of $7234. As a result, he is listed in "Col. 4" as having taught "1.00" full-time equivalent(FTE) teacher years. (Columns 6 and 8 represent full-time equivalent years for certified and non-certified other instructional staff members.) Teacher Howard (seventeenth on the list), on the other hand, was only paid $3,706 out of a yearly contract salary of $6,459. As a result, teacher Howard is listed in "Col. 4" as having taught only "0.57" equivalent full-time years. Obviously, teacher Howard spent about half the school year teaching somewhere else, being sick or working at another job. Using this method, the school district can determine quite accurately the total full-time equivalent number of instructional staff members in each school. Although your own school district may not prepare this particular document, it has to have a payroll list or similar document in order to prepare and distribute paychecks properly. A caveat about payroll lists: some districts require teachers to pick up paychecks at schools other than the ones at which they teach. In such a case more teachers may be listed at the school where teachers in an area of the district pick up their checks than actually teach at that school.

Use

The personnel audit provides the information needed to compile columns 2 through 4 and 8 through 10 of the comparability report.

LOC	ACCT NO	ID NO	NAME		RANK	STP	BASE SAL	STD BASE	COL 4	COL 6	COL 8	LONG.
100	0214-01	08111	EVANS	C	215	04	7,241	7,234	1.00	.00	.00	1,034
100	0214-01	13840	FARRIS	RL	100	10	7,460	7,492	1.00	.00	.00	2,567
100	0214-01	14181	FEWELL	MD	300	00	6,459	6,459	1.00	.00	.00	
100	0214-01	14138	GIBSON	RS	300	06	6,455	6,459	1.00	.00	.00	1,554
100	0214-01	13013	GILLAND	KF	300	10	6,255	6,459	.97	.00	.00	2,505
100	0214-01	01061	GIVAN	F	200	15	6,971	6,976	1.00	.00	.00	4,130
100	0214-01	06129	GOODFRIEND	C	215	15	7,236	7,234	1.00	.00	.00	4,123
100	0214-01	05248	GOULDER	AR	200	06	7,156	6,976	1.03	.00	.00	1,592
100	0214-01	01995	GREER	K	315	11	6,720	6,717	1.00	.00	.00	2,839
100	0214-01	10159	GUTERMUTH	MA	300	01	6,462	6,459	1.00	.00	.00	255
100	0214-01	06788	HABICH	AW	100	15	6,784	7,492	.91	.00	.00	3,734
100	0214-01	05115	HAGEDORN	G	200	06	6,974	6,976	1.00	.00	.00	1,552
100	0214-01	05938	HAUSMAN	F	200	10	7,160	6,976	1.03	.00	.00	2,648
100	0214-01	02016	HAZELRIGG	RL	300	10	6,462	6,459	1.00	.00	.00	2,588
100	0214-01	02882	HIEB	RJ	315	09	6,719	6,717	1.00	.00	.00	2,324
100	0214-01	07684	HOUSTON	AW	300	04	6,458	6,459	1.00	.00	.00	1,034
100	0214-01	08555	HOWARD	ML	300	02	3,706	6,459	.57	.00	.00	296
100	0214-01	11716	JACOBS	R	215	03	7,168	7,234	.99	.00	.00	770
100	0214-01	00179	KEENEY	AW	200	10	326	6,976	.05	.00	.00	122
100	0214-01	04833	LANG	KE	200	15	6,975	6,976	1.00	.00	.00	4,132
100	0214-01	01118	LANGLEY	N	200	15	7,231	6,976	1.04	.00	.00	3,877
100	0214-01	04824	LITTRELL	GE	200	15	6,940	6,976	.99	.00	.00	4,111
100	0214-01	04865	MALONE	C	300	15	6,456	6,459	1.00	.00	.00	4,128
100	0214-01	05733	MARSH	JS	300	13	6,466	6,459	1.00	.00	.00	3,361
100	0214-01	02064	MATTINGLY	CA	200	06	7,156	6,976	1.03	.00	.00	1,592
100	0214-01	03896	MCGOWAN	D	315	12	6,716	6,717	1.00	.00	.00	3,103
100	0214-01	12350	MICHAEL	J	300	06	5,883	6,459	.91	.00	.00	1,416
100	0214-01	01948	MONTGOMERY	P	300	15	6,464	6,459	1.00	.00	.00	3,878
100	0214-01	01731	MUNZ	E	200	15	6,975	6,976	1.00	.00	.00	4,132
100	0214-01	05561	NICHOLS	T	300	11	6,353	6,459	.98	.00	.00	2,801
100	0214-01	14109	PAPE	ES	300	04	6,460	6,459	1.00	.00	.00	1,034
100	0214-01	09067	RIEMANN	EH	300	12	6,469	6,459	1.00	.00	.00	3,101
100	0214-01	05572	ROBERTSON	A	200	15	6,977	6,976	1.00	.00	.00	4,133
100	0214-01	02965	ROBINSON	P	200	15	6,971	6,976	1.00	.00	.00	4,129
100	0214-01	05841	ROTHMAN	A	200	09	6,939	6,976	.99	.00	.00	2,313
100	0214-01	03880	ROWELL	EA	215	15	7,235	7,234	1.00	.00	.00	4,123
100	0214-01	05245	ROY	RW	300	04	3,977	6,459	.62	.00	.00	637
100	0214-01	07649	SAVELY	J	215	15	7,236	7,234	1.00	.00	.00	4,123
100	0214-01	02823	SCHMIDT	JH	315	07	6,719	6,717	1.00	.00	.00	1,808
100	0214-01	03591	SIKORA	S	300	12	6,464	6,459	1.00	.00	.00	3,098
100	0214-01	14676	SIMMONS	JN	300	07	3,981	6,459	.62	.00	.00	1,116
100	0214-01	03399	SMITH	BG	215	13	7,241	7,234	1.00	.00	.00	3,361
100	0214-01	12212	SMITH	HD	300	02	6,397	6,459	.99	.00	.00	511
100	0214-01	01723	SPIES	EL	215	15	7,243	7,234	1.00	.00	.00	4,128
100	0214-01	11742	STINSON	S	300	02	6,358	6,459	.98	.00	.00	508
100	0214-01	04224	STOKES	MA	300	06	6,455	6,459	1.00	.00	.00	1,554
100	0214-01	05871	THARP	W	300	15	6,466	6,459	1.00	.00	.00	3,880
100	0214-01	14261	TOLER	RN	300	00	6,459	6,459	1.00	.00	.00	
100	0214-01	01162	TRAIL	KH	315	09	6,721	6,717	1.00	.00	.00	2,325
100	0214-01	06571	TRUSTY	FS	215	15	7,238	7,234	1.00	.00	.00	3,880
100	0214-01	01774	TURPEN	EL	200	15	7,229	6,976	1.04	.00	.00	3,875
100	0214-01	00942	VOLZ	J	300	15	6,460	6,459	1.00	.00	.00	3,876

You should make sure that the staff totals in columns 2 through 4 are full-time equivalent totals rather than point-in-time totals which might include all the teachers that worked at the school during the year. Secondly, be sure that the salary totals in columns 8 through 10 reflect salaries actually paid rather than contract salaries.

Some personnel audit reports may not subtract out longevity pay. If, however, they do include the teacher's educational background (B.A., M.A., etc.), then the salary schedule (which we discuss next) can be used to make that computation.

5. Salary Schedule

Significance

This source provides another method of computing column 10 of the comparability report.

Description

The school district salary schedule insures uniform salaries for persons with comparable education and experience. In our example on page B-13, longevity (experience) is shown in the left-hand vertical column (YEARS EXPER.). Since we want to exclude longevity considerations, we will always use the top row of salaries, which is for zero years experience. Educational background is listed in various ranks horizontically across the top. These ranks used in this school district (other districts may use different classifications) are defined as follows:

LOUISVILLE BOARD OF EDUCATION
1971-72 TEACHERS SALARY SCHEDULE
BASE $6459 INDEX 4-9 1/2 MONTHS--190 DAYS

YEARS EXPER.	RANK III SALARY	INDEX	RANK III+15 SALARY	INDEX	RANK II SALARY	INDEX	RANK II+15 SALARY	INDEX
0	$6459	100	$6717	104	$6976	108	$7234	112
1	6717	104	6976	108	7234	112	7492	116
2	6976	108	7234	112	7492	116	7751	120
3	7234	112	7492	116	7751	120	8009	124
4	7492	116	7751	120	8009	124	8268	128
5	7751	120	8009	124	8268	128	8526	132
6	8009	124	8268	128	8526	132	8784	136
7	8268	128	8526	132	8784	136	9043	140
8	8526	132	8784	136	9043	140	9301	144
9	8784	136	9043	140	9301	144	9559	148
10	9043	140	9301	144	9559	148	9818	152
11	9301	144	9559	148	9818	152	10,076	156
12	9559	148	9818	152	10,076	156	10,334	160
13	9818	152	10,076	156	10,334	160	10,593	164
14	10,076	156	10,334	160	10,593	164	10,851	168
15	10,334	160	10,593	164	10,851	168	11,109	172

YEARS EXPER.	RANK I SALARY	INDEX	RANK IV 96-128* SALARY	INDEX	RANK V 64-95* SALARY	INDEX
0	$7492	116	$5038	0.78	$4650	0.72
1	7751	120	5296	0.82	4909	0.76
2	8009	124	5555	0.86	5167	0.80
3	8268	128	5813	0.90	5426	0.84
4	8526	132	6071	0.94	5684	0.88
5	8784	136	6330	0.98	5942	0.92
6	9043	140	6588	1.02	6201	0.96
7	9301	144	6847	1.06		
8	9559	148				
9	9818	152				
10	10,076	156				
11	10,334	160				
12	10,593	164				
13	10,851	168				
14	11,109	172				
15	11,368	176				

In addition those eligible will receive the $250 Super Maximum increment.

RANK I---------- Those holding regular certificates and who have a master's degree plus an additional 30 semester hours of graduate work or its equivalent.

RANK II+15 -------- Those holding regular certificates and who have a master's degree plus 15 semester hours of approved graduate work or its equivalent.

RANK II ---------- Those holding regular certificates and who have a master's degree or its equivalent.

RANK III+15 ------- Those holding regular certificates and who have a baccalaureate degree plus 15 semester hours of approved graduate work or its equivalent.

RANK III ---------- Those holding regular certificates and who have a baccalaureate degree or its equivalent.

RANK IV ---------- Those holding a certificate and who have 96-128 semester hours or its equivalent.

RANK V ---------- Those holding a certificate and who have 64-95 semester hours or its equivalent.

Use

The salary schedule, used in conjunction with a list of teachers and their ranks for each school, will yield column 10 of the comparability report, total instructional salaries minus longevity (for each school). The total salaries in a given rank can be determined by multiplying the number of teachers in that rank by the minimum (no longevity pay) salary for that rank. Then all the rank totals can be combined to obtain the total instructional salaries (minus longevity).

6. Annual Statistical Summary

Significance

This source represents another method of determining columns 1 through 4, and 8 and 12 of the comparability report.

Description

Many school districts compile an annual statistical summary for their own use. Page B16 shows the table of contents of such a summary for the Jefferson County (Kentucky) Public Schools.

Use

Since this source is meant to be a public document, you should regard it with some suspicion. At any rate, the summary report will probably only be useful to you if it presents school-by school statistics. In that case, the totals of students, faculty and instructional expenditures for each school may be compared to columns 1 through 4, 8 and 12 of the comparability report. Once again, you must determine whether the people totals were averaged or taken at a point-in-time and whether the budget totals reflect sums allocated or sums actually spent. District totals here may be useful as indicated in the Introduction to this Appendix.

7. Annual Financial Report

Significance

This source provides a check on column 8 and column 12 totals in the comparability report.

Description

Another annual report LEA's make is a financial summary of the general fund and other budgets to their SEA's for purposes of accounting for public funds. Usually both a summary for the preceding year and a close estimate budget for the current year are provided. School-by-school figures are generally not provided. An example of this report for the Jefferson County Public Schools, Jefferson County, Kentucky, is shown on page B-17.

CONTENTS

	PAGE
EDUCATIONAL PHILOSOPHY OF THE JEFFERSON COUNTY PUBLIC SCHOOLS	1
SECTION 1. ORGANIZATION	
The Jefferson County Board of Education	2,3
Directory of Administrative Line - Staff	4
Administrative Line - Staff Organization Chart	5
Personnel - Number By Job Classification and Average Annual Salary	6
SECTION 2. SCHOOLS	
School Statistics - Buildings, Teachers, Pupils and School Capacities	7,8
Approximate School Locations By Educational Districts - Index and Map	9,10
School Calendar for the School Year 1971-72	11
Teachers----By Sex	12
By Academic Preparation	13
By Years of Experience	14
By Distribution on the 1970-71 Salary Schedule	15
By Average Annual Salary	16
By 1971-72 Salary Schedule for Teachers	17
By Years of Age and Marital Status	18
By Resignations of Certified Personnel	19
By College Affiliation	20
Teachers and Pupils - Number and % Increases and Teacher-to-Pupil Ratios	21
Pupils------Membership Increases Since 1950 - Annual and Cumulative	22
Average Daily Attendance Compared with Average Daily Membership	23
Average Daily Membership By Grades - Past Five Years	24
Attendance and Membership By Grades for 1970-71	25
Average Daily Membership By Grades and Sex for 1970-71	26
Turnover in Pupil Membership By Grades During the Year 1970-71	27
Pupil Progress By Grades, 1970-71	28
Pupil Dropouts, 1970-71	29
Pursuits Followed By Jefferson County High School Graduates	30
Activities--The Elementary School Program for the Day	31
Instructional Television Schedule and Pupil Participation	32
Testing	33
Summer School Enrollment and Program	34
Adult Education Enrollment and Courses Offered	35
High School Pupil Participation in Extracurricular Activities	36
Instructional Materials Center (Library) Report	37
School Lunches	38
Pupil Transportation - Total	39
Pupil Transportation - By Grades	40
SECTION 3. FINANCE	
Tax Rates and Assessment Ratios, 1950-51 through 1965-66	41
Tax Rates for the School Years 1966-67 through 1971-72	42
Comparison of Tax Statistics - Assessments and Revenue Per Pupil	43
Revenue and Expenditures By Years Since 1950	44
Revenue By Source - General Fund	45
Revenue By Source - Special Voted Building Fund	46
% By Source of Grand Total Revenue	47
% By Source of General Fund Revenue	48
% By Source of Special Voted Building Fund Revenue	49
Detail of Revenue By Source - School Year 1970-71	50
The General Fund School Dollar for 1970-71	51
Comparison By Budget Functions of the 1971-72 Budget with 1970-71 Expenditures	52
Description of the 1971-72 Budget Functions	53
General Fund Expenditures for 1970-71 By Classification of Expense	54
Expenditures By Budget Functions, 1971-72 Budget and Past Five Years	55
Total Expenditures Per Pupil - By Years Since 1950	56
Expenditures Per Pupil By Budget Functions, 1971-72 Budget and Past Five Years	57
Expenditures Per Pupil By Budget Functions - General Fund Only	58
Building Construction Costs, 1950 through 1971	59
Building Construction Costs, Pupils and Population - By Educational Districts	60
Building Sites Costs - By Schools	61,62
Pupil Transportation Operating Costs	63
SECTION 4. COMPARISONS	
Growth Indicators of Jefferson County Since 1950	64
% of General Fund Revenue By Source - By States and Jefferson County	65
Tax Statistics - Jefferson County and Other School Systems	66
11-Year Comparison of Pupil Growth - Jefferson County and Other School Systems	67
Comparison of School Statistics - Total United States and Jefferson County	68
Expense Per Pupil - National Index and Jefferson County	69
Expense Per Pupil - By States and Jefferson County	70
Expense Per Pupil - Jefferson County and Other School Systems	71
1970-71 Teacher Average Annual Salaries - By States and Jefferson County	72
1970-71 Average Teacher Salaries - Jefferson County and Other School Systems	73
Miscellaneous Comparisons - By States and Jefferson County	74

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF EDUCATION
DIVISION OF FINANCE

B-17

ANNUAL REPORT – FINANCIAL

Year Ending JUNE 30, 19 72

JEFFERSON COUNTY (County or Independent) School District, County of JEFFERSON COUNTY

EXPENDITURES

CODE NO.	ITEM	TOTAL AMOUNT SPENT FOR YEAR	TOTAL BUDGET APPROPRIATION	BALANCE OR DEFI AT CLOSE OF YE
	ADMINISTRATION	xxxx	xxxx	xxxx
	SALARIES	xxxx	xxxx	xxxx
111	Superintendent	xxxx	xxxx	xxxx
111.01	Superintendent	33,275 00	33,275 00	0
111.02	Assistant Superintendent	256,702 19	260,000 00	3,297 8
112	Secretary to Board of Education	6,918 39	6,900 00	18 3
113	Clerks & Stenographers	344,060 14	358,136 51	14,076 3
114	Attorney to Board of Education	xx	xx	xx
115	School Bus. Admin. & Other Cert. Staff	26,120 00	26,120 00	0
116	Other Administrative Staff	395,467 06	397,306 00	1,838 9
117	Tax Collector (Salary)	xx	xx	xx
	School Board Per Diem	3,582 05	3,800 00	21
	CONTRACTUAL SERVICES	xxxx	xxxx	xxxx
131	Rental of Buildings	59,919 47	66,627 63	6,705 1
132	Other Contractual Service for Administration	40,986 07	48,000 00	7,013 9
	OTHER EXPENSES	xxxx	xxxx	xxxx
151	Tax Collector (Fee)	xx	xx	xx
152	Administrative Travel	16,002 46	17,850 00	1,847 5
153	Administrative Supplies	66,163 85	75,303 35	9,139 3
154	Printing & Publishing	11,686 07	16,328 25	4,642 1
155	Miscellaneous	11,805 71	14,267 00	2,461 2
	H. Total For Administration	1,272,688 46	1,323,913 74	51,225 3
	INSTRUCTION	xxxx	xxxx	xxxx
	SALARIES	xxxx	xxxx	xxxx
211	Principals – Secondary	xxxx	xxxx	xxxx
211.01	Principals	354,191 25	353,288 00	903 2
211.02	Assistant Principals	624,932 87	624,183 00	749 8
212	Principals – Elementary	xxxx	xxxx	xxxx
212.01	Principals	1,164,709 94	1,167,302 30	2,592 2
212.02	Assistant Principals	10,804 44	44,432 00	33,627 5
213	Supervisors	664,435 93	670,046 00	5,610 0
214	Teachers – Secondary	16,114,025 66	16,027,997 00	86,028 6
215	Teachers – Elementary	17,008,548 65	17,095,861 00	87,312 3
215	Special Instructional Staff	xxxx	xxxx	xxxx
215.01	Librarians – Secondary	512,755 43	524,453 00	11,69
	Librarians – Elementary	704,443 88	763,955 00	59,511
215.03	Guidance Personnel – Secondary	1,299,769 25	1,322,416 00	22,64
215.04	Guidance Personnel – Elementary	553,653 81	578,912 00	25,258
215.05	Television Personnel	145,897 65	146,493 00	595
215.06	Other	175,095 28	206,018 00	31,921
	Other Instructional Staff	xxxx	xxxx	xxxx

Use

Unless your state requires school-by-school account totals, the only use you can make of this report is to check its instructional expenditure totals with those of the comparability report. For instance, if you were to total column 8 of the comparability report for the Title I elementary schools and then find the non-Title I elementary school total by multiplying the average per school by the number of schools, the resulting Title I plus non-Title I total should equal the totals of the categories in the financial report, i.e. teachers, principals, counselors, etc. If these totals are not approximately equal, you have reason to doubt the comparability report. It could be the case, for example, that Title I monies as well as general fund monies were included in the comparability report computations.

8. ADM/ADA Report

Significance

The ADM/ADA report is the most accurate source of pupil totals for column 1 of the comparability report.

Description

Most school districts compile average daily membership (ADM) and /or average daily attendance (ADA) statistics monthly and annually to qualify for state financial aid. An example of a monthly ADM/ADA report for the Louisville Public Schools is shown on page B-19.

Use

The school district may have used these ADM figures directly in its comparability report. We have, however, seen cases where some children were excluded from ADM totals in comparability reports because they were taught by Title I-paid teachers or because they were members of special education classes. These practices are obviously incorrect. Make sure as well that you know exactly how ADM was computed, since not all districts use the standard method (defined in Appendix A).

MONTH March 19 72 DAYS TAUGHT 19

SENIOR HIGH: SCHOOLS:	Member-ship	Average D. Membs.	Average D. Attend.	Average D. Abs.	% of Attend.	Tardies
Ahrens	1340	1346.7	1192.7	154.0	88.6	1081
Atherton	1548	1551.3	1416.4	134.9	91.3	895
Central	1457	1471.2	1225.5	245.7	83.3	1086
Iroquois	1500	1507.4	1343.3	164.1	89.1	1154
Manual Sr.	1308	1329.2	1156.3	172.9	87.0	1119
Male	1382	1390.1	1149.7	240.4	82.7	6269
Shawnee Sr.	872	878.9	715.4	163.5	81.4	531
TAP	108	106. 8	61.9	44.9	57.9	
TOTAL SR. HI.	9515	9581.7	8261.3	1320.4	86.2	12,135
JUNIOR HIGH: TAP. TAP	39	40.1	19.5	20.6	48.7	
Alt. Sc	118	105.5	82.9	22.6	78.6	
Barret	687	688.7	624.7	64.0	90.7	971
DuValle	866	868.3	734.3	134.0	84.6	1473
Gottschalk	941	938.0	841.8	96.2	89.7	345
Highland	870	873.3	822.1	51.2	94.2	621
Manly	995	995.7	874.2	121.5	87.8	1028
Manual Jr.	1110	1111.8	978.9	132.9	88.0	980
Meyzeek	363	364.7	304.6	60.1	83.5	684
Parkland	1061	1065.4	955.2	110.2	89.7	1351
Russell	681	679.6	577.6	102.0	85.0	1426
Shawnee	1603	1602.8	1437.9	164.9	89.7	1329
Southern	1049	1049.8	955.5	94.3	91.0	464
Western	1271	1266.8	1087.5	179.3	85.8	1890
ner	856	862.5	745.4	117.1	86.4	991
TOTAL JR. HI.	12,510	12,513.0	11,042.3	1470.7	88.2	13,553

9. HEW/OCR Directory

Significance

The HEW/OCR Directory provides a check of the figures in columns 1 and 2 of the comparability report.

Description

The Office of Civil Rights (OCR) in the Department of Health, Education and Welfare (HEW) is responsible for administering Title IV of the 1964 Civil Rights Act as it applies to programs funded by HEW. Title VI prohibits discrimination based on race, color, or national origin in any program or activity that receives federal financial assistance. In partial fulfillment of this responsibility, periodic racial/ethnic surveys of public elementary and secondary schools are conducted as authorized in regulations implementing Title VI. One such survey is the Directory of Public Elementary and Secondary Schools in Selected Districts, Enrollment and Staff by Racial/Ethnic Group Fall, 1970, U.S. Dept. of HEW/OCR 72 5. The Directory can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock No. 1700-0093; price $10.25).

The HEW/OCR Directory is relevant for our purposes because it lists the number of students and the number of classroom teachers in each school. In addition, OCR has on file in Washington under the category of "professional instructional staff" information that is germane to the calculation of ration 2. Under the heading of "professional instructional staff" the OCR requires information showing the number of individuals in the following categories at each school: classroom teachers, principals, assistant principals, supervisors of instruction, curriculum consultants, school librarians, audio visual staff, guidance counselors, school psychologists, and

homebound personnel. It does not include paraprofessionals, non-instructional staff, i.e., nurses, social workers, clerical, and custodial employees.

This data is reported as of October 1 each year or the nearest date to October 1 when the membership can be considered stabilized. Individual schools and school districts reporting this information are specifically instructed to use this point in time and not to use averages such as ADM. Teachers whose salaries are paid from federal sources are included in the "classroom teacher category." Kindergarten students are considered full-time rather than half-time students and therefore are counted in the same manner as grades 1-12. The Directory page for the Louisville Public Schools is shown on page B-23.

Use

The HEW/OCR Directory is useful for checking the figures offered by your LEA in its comparability report for columns 1 and 2. Discrepancies as to the number of teachers directly affects ratio 1, and the figures obtained from HEW/OCR files of professional instructional staff directly affect ratio 2.

However, the Directory has definite limitations. In particular:

1. It only includes full-time teachers assigned to a school, and does not include the full-time equivalence of part-time teachers or of teachers which are assigned to one school but which spend part of their time in other schools.

2. It includes individuals paid from federal funds in the "classroom teacher" category and,

3. It considers kindergarten pupils as full-time rather than half-time students.

4. It uses point-in-time rather than averaged data.

The number of federally-funded classroom teachers can be determined from the budgets and project applications of the various federal programs in your district; these can then be subtracted from the Directory figures to arrive at figures that should be the same or fairly close to those

on the comparability report. The HEW/OCR pupil numbers can be made more accurate by subtracting one-half the actual number of kindergarten children (determined from some other source) from the HEW/OCR pupil total, thus creating a revised total which counts kindergarten children as half-time students as is required for the comparability report.

Nevertheless, these HEW/OCR figures were totalled at one point-in time, and you should only expect general agreement between them and other sources. However, if a significant disparity exists between the comparability report and the Directory figures, there may be good reason to doubt the accuracy of the comparability report especially if the deviation between the Directory and comparability report figures is different for Title I and non-Title I schools. For example, if the comparability report shows more teachers and fewer students than the Directory in Title I schools but not in non-Title I schools you should be suspicious, because the comparability report figures make the district appear more comparable than it may actually be. To check this, compute ratio 1 (the pupil-teacher ratio) for each Title I school, and for all non-Title I schools * and compare to the ratios in the comparability report. See Section II of this manual.

In general, the teacher total in the Directory should exceed the comparability report total in every school which has federally funded teachers. If it does not, then you should investigate to see if the federally funded teachers were erroneously included in the comparability report.

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* Notice that to compute the average pupil-teacher ratio for all non-Title I schools you must determine the total number of pupils in non-Title I schools and divide this total by the total number of teachers in non-Title I schools. You cannot get this ratio by adding the pupil-teacher ratio for each non-Title I school and dividing by the numberof non-Title I schools.

DIST. BASE: LOUISVILLE CITY COUNTY: JEFFERSON SUPT. LOC: LOUISVILLE # OF SCHS: 68

	STUDENTS								FULL TIME TEACHERS					
	ASIAN	NEGRO	AMERIC	SPANISH	WHITE	OTHER	TOTAL		ASIAN	NEGRO	AMERIC	SPANISH	WHITE	TOTAL
DISTRICT TOTAL: NUMBER	13	25674	31	21	25739	27458	53197		1	668	1	2	1572	2244
PERCENT	0.0	48.3	0.1	0.0	48.4	51.6	100.0		0.0	29.8	0.0	0.1	70.1	100.0
SCHOOL NAME								GRADES						
JONES	0	394	0	0	394	37	431	P - 6S	0	8	0	0	16	24
ABRAHAM LINCOLN	0	189	0	0	189	408	597	P - 6	0	2	0	0	16	18
BENJAMIN FRANKLIN	0	16	0	0	16	443	459	P - 6S	0	4	0	0	12	16
BOOKER T WASHINGTON	0	718	0	0	718	4	722	P - 6S	0	22	0	0	11	33
BRANDEIS	0	1078	0	0	1078	16	1094	P - 6S	0	28	0	0	13	41
BYCK	0	872	0	0	872	19	891	P6S	0	26	0	0	13	39
CARMICHAEL	0	504	0	0	504	178	682	P - 6S	0	14	0	0	28	42
CARTER ELEM	0	824	0	0	824	1	825	P - 6S	0	18	0	0	13	31
CLAY	0	607	0	0	607	37	644	PK12S6S	0	12	0	0	11	23
COCHRAN	0	29	0	0	29	449	478	P - 6S	0	1	0	0	22	23
COLERIDGE TAYLOR	0	430	0	0	430	5	435	P - 6	0	12	0	0	13	25
COTTER	0	297	0	0	297	0	297	P123456	0	8	0	0	3	11
DOLPHINGER	0	34	0	0	34	425	459	P - 6S	0	4	0	0	12	16
ELIZABETH BRECKINRIDGE	0	84	0	3	87	488	575	P - 6S	1	3	0	0	19	23
ENGELHARD	0	40	0	0	40	555	595	P - 6S	0	6	0	0	12	18
HAZELWOOD	0	29	4	0	33	953	986	P - 6	0	3	0	0	29	32
HEYWOOD	0	48	0	0	48	348	396	P - 6	0	3	0	0	12	15
KENNEDY ELEM	0	754	0	0	754	6	760	P - 6S	0	26	0	0	4	30
MCFERRAN	0	729	0	0	729	270	999	P - 6S	0	10	0	0	25	35
PARKLAND ELEM	0	728	0	0	728	2	730	P - 6S	0	18	0	0	8	26
PERRY	0	624	0	0	624	3	627	P - 6S	0	14	0	0	7	
PORTLAND	0	9	0	0	9	489	498	P - 6	0	3	0	0	12	
ROOSEVELT	0	148	0	0	148	641	789	P - 6S	0	7	0	0	39	
SOUTHWICK	0	631	0	0	631	3	634	P - 6S	0	18	0	0	7	25
STORTZ	0	509	0	1	510	52	562	P - 6S	3	4	0	0	12	20
TALBERT	0	264	0	0	264	5	269	P - 6	0	8	0	0	4	12
WHEATLEY	0	755	0	0	755	12	767	P - 6S	0	16	0	0	28	44
ATKINSON	1	64	0	1	66	1021	1087	K - 6S	0	4	0	0	32	36
BEECHMONT	0	0	0	0	0	326	326	K - 6	0	1	0	0	10	11
BELKNAP	0	4	2	2	8	491	499	K - 6	0	2	0	0	14	16
BLOOM	0	3	1	0	4	447	451	K - 6S	0	2	0	0	10	12
CLARK	0	38	2	0	40	449	489	K - 6S	0	2	0	0	15	17
EMERSON	0	94	0	0	94	471	565	K - 6S	0	4	0	0	19	23
FIELD	0	3	2	0	5	412	417	K - 6S	0	1	0	0	13	14
FOSTER	0	779	0	0	779	2	781	K - 6	0	17	0	0	16	33
FRAYSER	0	34	0	0	34	441	475	K - 6	0	1	0	0	25	26
[illegible]	0	18	0	0	18	644	662	K - 6	0	2	0	0	19	21
JOHNSTON	0	20	0	0	20	570	590	K - 6S	0	2	0	0	13	15
[illegible]	0	943	0	0	943	53	996	K - 6S	0	17	0	0	17	34
LONGFELLOW	0	0	0	0	0	379	379	K - 6	0	1	0	0	12	13
LOWELL	0	46	0	0	46	486	532	K - 6S	0	2	0	0	18	20
MARSHALL	0	217	0	0	217	197	414	K - 6S	0	6	0	0	17	23
RUTHERFORD	0	6	10	5	21	992	1013	K - 6	0	3	1	0	29	33
SEMPLE	2	2	0	2	6	814	820	K - 6S	0	5	0	0	26	31
SHAWNEE ELEM	0	779	0	0	779	195	974	K - 6S	0	12	0	0	22	34
SHELBY	0	27	0	0	27	422	449	K - 6	0	2	0	0	13	15
TENSLEY	0	22	0	0	22	419	441	K - 6S	0	2	0	0	16	18
HENRY CLAY ELEM SCHL	0	227	0	0	227	16	243	3 - 6S	0	4	0	0	5	9
BARRET JR H S	1	36	0	1	38	700	738	7 - 9	0	4	0	0	30	34
DUVALLE JR H S	0	784	0	0	784	4	788	7 - 9S	0	24	0	0	22	46
GOTTSCHALK JR H S	5	18	2	2	27	968	995	7 - 9S	0	5	0	0	40	45
HIGHLAND JR H S	0	81	1	2	84	921	1005	7 - 9	0	5	0	0	38	43
MANLY JR H S	0	548	0	0	548	450	998	7 - 9	0	19	0	0	32	51
MEYZEEK JR H S	0	385	1	0	386	6	392	7 - 9S	0	18	0	0	5	23
PARKLAND JR H S	0	1211	0	0	1211	31	1242	7 - 9S	0	22	0	0	32	54
RUSSELL JR H S	0	797	0	0	797	0	797	7 - 9S	0	24	0	0	15	39
SHAWNEE JR H S	0	1433	0	0	1433	166	1599	7 - 9S	0	23	0	1	38	62
SOUTHERN JR H S	0	3	0	0	3	1125	1128	7 - 9	0	2	0	0	43	45
WESTERN JR H S	0	259	0	0	259	994	1253	7 - 9S	0	10	0	0	47	57
WOERNER JR H S	0	276	0	1	277	521	798	7 - 9S	0	4	0	0	34	38
DUPONT MANUAL H S	0	763	0	0	763	1601	2364	7 - 12S	0	10	0	0	102	112
ANDRUS TRADE HIGH SCHOOL	0	468	0	0	468	1296	1764	10 - 12	0	8	0	0	85	93
ATHERTON H S	0	53	3	1	57	1567	1624	10 - 12	0	4	0	0	55	61
CENTRAL H S	0	1591	0	0	1591	1	1592	10 - 12S	0	52	0	0	21	73
IROQUOIS H S	0	13	0	0	13	1671	1684	10 - 12S	0	3	0	1	63	69
PALE H S	0	1356	2	0	1358	144	1500	10 - 12	0	15	0	0	61	76
SHAWNEE H S	4	895	1	0	900	136	1036	10 - 12S	0	13	0	0	44	57
PRENTICE SCH	0	36	0	0	36	93	129	S	0	2	0	0	9	11

10. Desegregation Report

Significance

This source provides a check for the numbers in column 1 of the comparability report.

Description

Several individual school districts across the country, either as a result of a court order or other reason, issue an annual report on the status of desegregation in their schools. The report lists the numbers of black and white pupils in each school. An example of this report for the Louisville Public Schools is on page B-25.

Use

These pupil totals can be used to check column 1 of the comparability report. Notice that the Louisville report computed the totals at a particular point in time late in September. In this situation, then, you would expect only general agreement between this source and any source which averages pupil attendance, such as ADM.

11. Personnel Directory

Significance

This source provides a check for columns 2 through 4 of the comparability report.

Description

Many school districts issue a personnel directory each year in which they include the names, addresses, phone numbers, and duties of the instructional staff of each school.

Use

This source may enable you to compile independent totals for columns 2, 3 and 4 of the comparability report. Bear in mind they only

School	September 25, 1970 White	Black	Total	September 24, 1971 White	Black	Total	September 22, 1 2 White	Black	Total
Elementary Continued:									
Frayser	571	31	602	538	32	570	511	32	543
Hazelwood	826	23	849	841	34	875	755	52	807
Heywood	312	37	349	283	43	326	277	32	309
Jacob	576	17	593	477	15	492	424	17	441
Johnston	246	19	265	265	15	280	242	19	261
Jones	24	286	310	30	294	324	19	265	284
Kennedy	5	630	635	4	615	619	5	577	582
King	50	865	915	31	844	875	17	827	844
Lincoln	373	159	532	329	146	475	300	123	423
Longfellow	323	0	323	296	0	296	301	0	301
Lowell	453	39	492	444	34	478	380	46	426
Marshall	181	212	393	175	187	362	144	178	322
McFerran	242	655	897	152	648	800	88	676	764
Parkland Elementary	0	598	598	4	588	592	3	527	530
Perry	2	505	507	1	447	448	0	389	389
Portland	403	6	409	382	19	401	342	25	367
Roosevelt	591	123	714	583	105	688	541	104	645
Rutherford	894	4	898	880	5	885	782	7	789
Semple	739	2	741	667	2	669	638	1	639
Shannon Elementary	181	716	897	128	696	824	95	716	811
Shelby	375	23	398	381	33	414	351	21	372
Southwick	1	503	504	1	492	493	0	452	452
Strother	48	443	491	49	448	497	31	415	446
Talbert	5	197	202	9	165	174	(Discontinued June, 1972)		
Tingley	384	22	406	378	25	403	339	18	357
Washington, B.T.	4	607	611	0	514	514	0	468	468
Wheatley	12	664	676	6	612	618	6	624	630
Young (New School 9/1971)	48	718	766 *	56	807	863 **	30	767	797
Total Elementary	13,514	12,672	26,186	12,690	12,187	24,877	11,528	11,691	23,219
TOTAL SENIOR HIGH	5,671	4,741	10,412	5,548	4,857	10,405	5,184	4,995	10,179
TOTAL JUNIOR HIGH	6,633	6,202	12,835	6,323	6,302	12,625	5,925	6,247	12,172
TOTAL ELEMENTARY	13,514	12,672	26,186	12,690	12,187	24,877	11,528	11,691	23,219
TOTAL ALL	25,818	23,615	49,433	24,561	23,346	47,907	22,637	22,933	45,570

** Clay pupils moved to Young School September 1971 - * Figures shown for 1970 are Clay pupils

reflect the point in time at which the Directory was published, but they should generally agree with the numbers in the comparability report.

12. Title I Project Application

Significance

The Title I application defines which schools are Title I schools and provides another comparison for the Title I school totals in Column 1 of the comparability report. In addition, it is the key source for investigating Title I questions other than comparability.

Description

The Title I Project Application explains in detail the proposed operation of the Title I program in an LEA during a particular school year. Generally, it is a long document, often 100 pages or more. We have reprinted several pages of the Louisville Public Schools' Title I Application on pages B28 through B38, and you should examine them carefully.

The first page always looks like page B28 of the Louisville Application. It shows the results of the district's computations of the incidence of poverty among its children (see Section IV, p. 31). Notice in the lower right-hand corner that the district-wide percentage of poor children is 34.4%, so that only school attendance areas with a higher percentage will be eligible. Page B30 gives the percentage for each eligible school. Prentice School, the first on the list, has 62 poor children out of a total of 137 or 45.3%. One hundred and twenty nine of them go to public school and the other eight either go to a school outside their school's attendance area or they don't go to any school.

Having decided which of the eligible schools will be Title I schools, the LEA then determines the special needs of the educationally deprived children, using the forms on pages B32 and 33 . These will hopefully be met by programs in the general areas listed on page B 31, having the general objectives listed on page B34. For each particular program it proposes, the LEA must then answer seven very pertinent

questions concerning needs, objectives, evaluation, in-service staff training, information dissemination, physical facilities, and the exact numbers of pupils and staff involved at each school (see pages B-36 and 37 for an example).

The application must demonstrate adequate parental involvement (see pages B35 and 36) and a detailed budget must be presented (pages B31 and 38).

Use

For comparability purposes, the application has two uses. First, it names all the Title I schools; from it you can determine whether the comparability report accurately separated Title I from non-Title I schools. Second, the application lists the total number of pupils at each school, enabling you to compare them with the Column 1 numbers in the comparability report. Since the application uses numbers from sometime previous to the project year and the method used to compile the totals is not explained, only general agreement should be expected. But recall that the comparability report may use data from the second preceding school year, i.e., the report due by July 1, 1972, can use either 1970-71 or 1971-72 school year data. Any large disparities should be investigated, using other sources such as the HEW/OCR Directory to see if any pattern of error exists.

Past applications may also indicate the number of Title I funded teachers and other personnel each school was to receive. These teachers can be subtracted from HEW/OCR Directory teacher totals to arrive at a figure that should be close to the number of teachers paid for by state and local funds in each school -- if both figures are for the same year (see also next item). The Title I application is also the key document for investigating Title I questions other than comparability.

Table of Contents

Page No.

I. INTRODUCTION

II. APPLICATION FOR GRANT
- A. Part 1 1
- B. Part 2 2

III. INSTRUCTIONAL AREAS
- A. Cultural Enrichment (Teenage Parents Program) 13
- B. Cultural Enrichment (Roosevelt "Swinging Door") 15
- C. Cultural Enrichment (Central High Contract School) 17
- D. Cultural Enrichment (Junior High Alternative Schools) 19
- E. Cultural Enrichment (Dropout Prevention) 22
- F. Cultural Enrichment (Maryhurst) 24
- G. Reading (Project Read) 26
- H. Reading (Listen, Look, Learn/Learning 100) (EDL) 29
- I. Reading (Reading Improvement Program) 31
- J. Reading (Programmed Tutoring) 34
- K. Reading (Support of Instructional Teams in Selected Title I Schools) 36
- L. Resource Teachers 39
- M. Mathematics 41
- N. Music (St. Joseph Catholic Orphan Home) 43
- O. Physical Education (St. Joseph Catholic Orphan Home) 45
- P. Kindergarten (Follow Through) 47
- Q. Special Education (Trainable Mentally Handicapped) 50
- R. Special Education (Teacher Education Through Aid of Resource Teachers) EMH 52
- S. Reduction of Class Size in Selected Junior High Schools (Project Action) 55

III. SUPPORTIVE AREAS
- A. Clothing 58
- B. Guidance 60
- C. Guidance (Non-Public Schools) 63
- D. Health 66
- E. Health (Follow Through) 69
- F. Library Services 71
- G. Psychological 74
- H. School Social Work 76
- I. Speech Therapy (Non-Public Schools) 78
- J. Related Services for Parents (Advisory Committee) 81
- K. Parent Activities (Follow Through) 83
- L. Psychological (St. Joseph Catholic Orphan Home) 85

IV. PROJECT BUDGET - DETAIL 87
- A. Attachment 1 (Extended Employment) 100
- B. Attachment 2 (Teacher Aide Assignment Certification) 102

APPLICATION FOR GRANT
TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN
UNDER TITLE I OF PUBLIC LAW 89-10 AS AMENDED

SECTION I - PROJECT REVIEW AND APPROVAL (To be completed by State Educational Agency)

1. STATE CODE	2. STATE PROJECT NO.	3. APPLICANT CODE NO.	4. APPLICANT PROJECT NO.	5. COUNTY CODE	6. CONG. DISTRICT	7. LEA CLASS	8. TOTAL ALLOCATI $
SIGNATURE (Authorized SEA Official)		DATE APPROVED		FOR FISCAL YEAR ENDING June 30, 1972			9. TOTAL AMOUNT T $ TOTAL ALLOCAT 10. $

SECTION II - CERTIFICATION

The applicant designated below hereby applies for a grant of Federal funds to provide instructional activ and services to meet the special educational needs of educationally deprived children as set forth in this a plication. I HEREBY CERTIFY that, to the best of my knowledge, the information contained in this applicatio is correct; the agency named below has authorized me, as its representative, to file this application; and a action is recorded in the minutes of the agency's meeting held on

July 6, 1971

APPLICANT (Legal Name of Agency)			NAME AND TITLE OF AUTHORIZED REPRESENTATIVE
Louisville Independent Board of Education			Dr. Newman Walker
MAILING ADDRESS (Street, City or Town)			SIGNATURE
J. Graham Brown Education Center Fourth at Broadway			
STATE	COUNTY	ZIP CODE	TELEPHONE (Area Code, Exch. No.)
Kentucky	Jefferson	40202	502/585-2231

NAME AND TITLE OF CONTACT PERSON	MAILING ADDRESS	TELEPHONE NO
Mrs. Barbara T. Roberts, Director	Fourth at Broadway, Louisville, Ky.	502/585-223

1. BALANCE OF FISCAL YEAR - FUNDS FOR FINAL EXPENDITURE FROM NONCONSECUTIVE LAWS

A. For FY ending June 30, 1970 $ 642.49 B. For FY ending June 30, 1971 $ 650.00 est.

COUNTY CODE	LEA	DOCUMENT TYPE	CARD CODE	FISCAL YEAR	LEA PROJECT NUMBER	CONGRESSIONAL DISTRICT
		2	0 2			
1 3	4 6	7 8	9 10	11 14	15 16	17

2. Number of schools and number of school age children residing in applicant's district (District Census)

	Resident Children (1)		Total Number of Schools (2)	Total Number of Resident Children (3)
	20		22 20	21
A.	1. Enrolled in public elementary schools	A. In applicant's school district	49	26,555
		B. In other school districts		11
	2. Enrolled in public secondary schools	A. In applicant's school district	20	23,385
		B. In other school districts		30
	3. Enrolled in private schools	A. In applicant's school district	56	9,745
		B. In other school districts		
	C. Institutional Schools for Neglected or Delinquent Children		5	55
B.	Not Enrolled in any School but Eligible for Enrollment in Applicant School			1,684*
C.	Total Number of Schools and Resident Children in Applicant's District (Sum of 2A and 2B)		128	61,936
D.	Number of Children Included in 2C, Column 3 that come from Low Income Families			21,244

District-Wide Percentages - Elementary 33.0% Secondary 36.1% or Combined 12 Grades 34.3%

E.	Average Number per School Attendance Area 2D ÷ total number of Public Schools)	207.9

*64 graduates, 399 underage, and 8 deaths in census not included in this figure.

APPLICATION FOR FEDERAL ASSISTANCE - TITLE I

County Code	LEA	Document Type	Card Code	Fiscal Year	LEA Project Number	Congressional District
1 3	4 6	7 8	0.2 9 10	11 14	15 16	17

a. A. Eligible Title I Public School Attendance Areas

TYPE SCHOOL	School No. (Do not comp.)	Name Of Public School (1)	Total No. of Children Enrolled in each School (2)	Number of Children Residing in Attendance Area: Total (3)	From Low Income Families (4)	Percent Column 4 ÷ 3 (5)	Estimate Number of Children Who Will Participate in Title I Activities at Schools Listed in Column (1): From Public Schools (6)	From Private Schools (7)	Total (Col. 6 & 7) (8)	From other public school outside proj. area (9)
1		Prentice	129	137	62	45.3	129			
1		Brandeis	1,040	1,093	422	38.6	167			
1		Parkland	698	619	235	38.0	237			
1		Clay	846	1,533	569	37.1	100			
1		Tingley	436	477	177	37.1	35			
1		Strother	542	593	216	36.4	93			
1		Roosevelt	769	1,125	398	35.4	350			
1		Junior High Schools								
1		Russell	796	861	747	86.8	300			
1		Meyzeek	391	417	323	77.5	56			
1		DuValle	788	940	643	68.4	500			
1		Woerner	798	847	431	50.9	440			
1		Manly	999	1,080	539	49.9	231			
1		Parkland	1,242	1,249	603	48.3	600			
1		Western	1,251	1,352	506	37.4	460			
1		Shawnee	1,627	1,684	616	36.6	300			
1	999	Total pub. schools		(Carried forward)						

b. Private Schools Serving Children from Eligible Attendance Areas Where Title I Activities Will be Located.

TYPE SCH.	School No. (Do not comp.)	Name of Private School (1)	Total Number of Children Enrolled in Each School (2)	Number of Children Enrolled who Live in Project Area (3)	Estimate No. of Children who Will Participate in Title I Activities at Schools Listed in Column (1): Total (4)	No. in Col. (4) From Outside Project Area (5)
2		St. Joseph	173	49	60	11
2		Popes Paul & John	194	173	170	
2		St. Therese	239	79	100	21
2		St. Vincent de Paul	194	131	130	
2						
2						
2						
2						
2	999	Total Prvt. schools	2,631	1,450	1,491	59

B-30

APPLICATION FOR FEDERAL ASSISTANCE - TITLE I

County Code	LEA	Document Type	Card Code	Fiscal Year	LEA Project Number	Congressional District
		2	07			
1 3	4 6	8	9 10	11 14		17

11. Instructional Services And Related Auxiliary And Supportive Services To Be Included Under This Project

Inst Or Serv Code	Major Activities (1)	Total Number Participating by Grade Level (Public, Private And Institutionalized) Pre-K (2)	K-Garten (3)	Grs 1-6 (4)	Grs 7-12 (5)	No. Of Children In Cols. 2,3,4, & 5 Enroll Private Schools (6)	Reside Insti... Neg. (7)	Reside Insti... Del. (8)	Estimated Cost (9)
19-21		23 27	28 32	33 37	38 42	43 47	48 52	53 57	58
111	Art								
112	Business Education								
113	Cultural Enrichment			72	843				145,2
114	English - Reading				1,843				799
115	English - Speech								
116	English - Second Language								
117	Foreign Language								
118	Home Economics								
119	Industrial Arts								
120	Mathematics				2,500				21.
121	Music								
	Health-Physical Education								
123	Natural Science								
124	Social Science								
125	Vocational Education								
126	Kindergarten		200	450					50.
127	Prekindergarten								
128	Sp. Ed. For Handicapped (Not to Include Speech Therapy)			520	360				55.2
129	Reduction of Class-Size				200				218.
211	Attendance								
212	Clothing								25.
213	Food								
214	Guidance			4,000	1,000				219.
215	Health - Dental								
216	Health - Medical		200	2,450	500				23.
217	Library			5,000					209.
218	Psychological (Includes Testing)			300	200				8.
219	School Social Work			1,500	1,500				66.
220	Speech Therapy			142					21.
221	Transportation								
222	Related Services For Parents		150	400	15				18.
999	Total Est. Cost (Sum of 111-222)								$1,895,

APPLICATION FOR FEDERAL ASSISTANCE - TITLE I

County Code (1-3)	LEA (4-6)	Document Type (8)	Fund Code (9-10)	Fiscal Year (11-14)	LEA Project Number (15-16)	Congressional District (17)
		2	09			

7. Characteristics of Educationally Deprived Children (Residing in Eligible Attendance Areas) which Indicate Their Need for Special Educational Assistance Under Title I. (See Reverse Side for Instruction

T/C (18)	Code (19-20)	Number of Prekindergarten (23-27)	Number of Kindergarten (28-31)	Number of Elementary (Grades 1-6) (32-35)	Number of Secondary (Grades 7-12) (36-39)
	11				
	12			5.100	3.915
	13		200		2.650
	14				
	21				
	22				
	23				
	24				
	31		200	4.200	3.200
	32			4.000	3.000
	33				
	34				
	35				
	41			1.400	600
	42				500
	43				
	44				
	45				
	51				
	52				
	53				
	54			900	300
	55				
	61			400	200
	62				
	63				
	64			150	
	65				
	66				
	67				

INSTRUCTIONS FOR COMPLETING ITEM 7

Note that the codes and characteristics identified below are represented in code form only in the "code" column on the opposite side of this form.

In the column at the extreme left ("18"), identify those characteristics which apply to your project in accordance with the code numbers as defined below. Place a "1" opposite each code that applies. For each applicable object code indicate in the other columns provided how many of the various types of children are related to this characteristic.

CODE	CHARACTERISTICS
	Achievement
11	Poor performance on standardized tests
12	Classroom performance significantly below grade level in reading
13	Achievement significantly below grade level in other skill areas
14	Other achievement characteristics (specify)
	Ability
21	Poor performance on standardized tests of intellectual ability
22	Low level in verbal functioning
23	Low level in non-verbal functioning
24	Other ability characteristics (specify)
	Attitude
31	Negative self-image
32	Negative attitude toward school and education
33	Low occupational and educational aspiration level
34	Expectations of school failure
35	Other attitude characteristics (specify)

CODE	CHARACTERISTICS
	Achievement
41	High absentee rate
42	High dropout rate
43	Disciplinary problems
44	Short attention span
45	Other behavior characteristics
	Characteristics Related to Learning Difficulties
51	Poor health
52	Malnutrition
53	Emotional and social instability
54	Lack of clothing
55	Other (specify)
	Handicapped
61	Mentally retarded
62	Hard of hearing
63	Deaf
64	Speech impaired
65	Visually handicapped
66	Seriously emotionally disturbed
67	Crippled
68	Other health impaired

APPLICATION FOR READING ...

COUNTY CODE	LEA	DOCUMENT TYPE	GRADE CODE	FISCAL YEAR	LEA PROJECT NUMBER	CONGRESSIONAL DISTRICT
		2	10			
3 4	5 6	8	9 10	11 14	15 16	17

9. PROJECT OBJECTIVES RELATED TO CHARACTERISTICS OF EDUCATIO ALLY DEPRIVED CHILDREN AS REPORTED IN PART I - BASIC DATA (7)

T/C	CODE NO.		OBJECTIVES (IN THE COLUMN AT THE EXTREME LEFT ("T/C"), INDICATE THE OBJECTIVES WHICH APPLY TO THIS PROJECT BY PLACING A "1" OPPOSITE THE APPLICABLE OBJECTIVES.)
	10		
	11	ACHIEVEMENT	TO IMPROVE PERFORMANCE AS MEASURED BY SVA DESIRED ACHIEVEMENT TESTS.
1	12	ACHIEVEMENT	TO IMPROVE CLASSROOM PERFORMANCE IN READING BEYOND USUAL EXPECTATIONS.
1	13	ACHIEVEMENT	TO IMPROVE CLASSROOM PERFORMANCE IN OTHER SKILL AREAS BEYOND USUAL EXPECTATIONS.
	14	ACHIEVEMENT	OTHER ACHIEVEMENT OBJECTIVES.
	21	ABILITY	TO IMPROVE PERFORMANCE AS MEASURED BY STANDARDIZED TESTS OF INTELLECTUAL ABILITY.
	22	ABILITY	TO IMPROVE CHILDREN'S VERBAL FUNCTIONING.
	23	ABILITY	TO IMPROVE CHILDREN'S NONVERBAL FUNCTIONING.
	24	ABILITY	OTHER OBJECTIVES RELATED TO ABILITIES.
1	31	ATTITUDES	TO IMPROVE THE CHILDREN'S SELF-IMAGE.
1	32	ATTITUDES	TO CHANGE (IN A POSITIVE DIRECTION) THEIR ATTITUDES TOWARD SCHOOL AND EDUCATION.
	33	ATTITUDES	TO RAISE THEIR OCCUPATIONAL AND/OR EDUCATIONAL ASPIRATIONAL LEVELS.
	34	ATTITUDES	TO INCREASE THEIR EXPECTATIONS OF SUCCESS IN SCHOOL.
	35	ATTITUDES	OTHER OBJECTIVES RELATED TO CHILDREN'S ATTITUDES.
1	41	BEHAVIOR	TO IMPROVE THE CHILDREN'S AVERAGE DAILY ATTENDANCE.
1	42	BEHAVIOR	TO IMPROVE THE HOLDING POWER OF SCHOOLS (TO DECREASE THE DROPOUT RATE)
	43	BEHAVIOR	TO REDUCE THE RATE AND SEVERITY OF DISCIPLINARY PROBLEMS.
	44	BEHAVIOR	TO IMPROVE AND INCREASE THE CHILDREN'S ATTENTION SPAN.
	45	BEHAVIOR	OTHER OBJECTIVES RELATED TO CHILDREN'S BEHAVIOR.
	51	RELATED TO LEARNING	TO IMPROVE THE PHYSICAL HEALTH OF THE CHILDREN.
	52	RELATED TO LEARNING	TO IMPROVE THE NUTRITIONAL HEALTH OF THE CHILDREN.
1	53	RELATED TO LEARNING	TO IMPROVE THE CHILDREN'S EMOTIONAL AND SOCIAL STABILITY AND/OR THAT OF THEIR FAMILIES.
	54	RELATED TO LEARNING	TO PROVIDE ADEQUATE CLOTHING FOR THE CHILDREN.
	55	RELATED TO LEARNING	OTHER OBJECTIVES RELATED TO LEARNING CONDITIONS.

10. Types of Devices Related to Performance Criteria To Be used in Evaluation ("X" as many as apply)

A MEASURING INSTRUMENTS

	TYPE OF TEST	AREAS OF MEASUREMENT: ACHIEVEMENT	ABILITY	ATTITUDE	BEHAVIOR	OTHER
1	STANDARDIZED TESTS (NATIONAL NORMS)	X		X		
2	STANDARDIZED TESTS (LOCAL NORMS)					

D OTHER EVALUATIVE DEVICES

1 ( ) ANECDOTAL RECORDS, TEACHER RATINGS, REACTIONS, AND INVENTORIES

2 ( ) ADMINISTRATIVE AND OTHER OBSERVER RATINGS & REACT

3 ( ) OTHER (SPECIFY):

Parental Involvement

1. What is the composition of the Parent Advisory Committee?

The following is the present composition of the Advisory Committee:

27 Parents from Title I Schools
7 Area Councils
2 Community Action Commission
1 Head Start
1 Follow Through
7 School Officials
4 Representatives of Community Agencies

2. How often and when does the committee meet?

The committee meets on the third Thursday of each month. The month of December is the only exception.

3. How is the committee involved in the planning and operation of your Title I project?

Many of the components of the present Title I program came about as a direct result of suggestions of the committee. The committee has consistently expressed that the area of reading represents the greatest educational need. Most of the suggestions formaliy made have been incorporated into the program.

The committee is presently working on a procedure of operation which will enable it to participate meaningfully in the planning and operation of the program.

III. INSTRUCTIONAL AREA

G. Reading (Project Read)

For each instructional area included in the Title I program, provide specific information regarding the following points.

1. Why is the activity needed?

   Results of our testing program indicate that at least 50% of the children in grades 3 through 8 are reading one or more years below expected reading level.

2. What are the specific objectives?

   To reduce the number of children in grades 3-8 who are reading one or more years below expected reading level 60%.

3. How will the activities be evaluated to determine if the objectives are met? Who will evaluate the activities?

   At the end of the 1970-71 school year, a reading achievement test will be given to a random sampling of participating pupils. Results will be compared with a random sampling of other pupils receiving another method of reading instruction. Evaluation questionnaires will be filled out by classroom teachers and principals. Informal pupil and parent interviews will be held to ascertain reaction to the program. An instrument will be devised by a group of teachers principals, the project supervisor and the Title I evaluators to measure the increased self-confidence and self-image of the pupils.

4. What are the in-service plans for the professional and sub-professional staff members employed in conjunction with this instructional area?

   Behavioral Research Laboratories will provide a review workshop for all personnel who used the materials during the 1969-70 year and will train and assist all participating staff members who are unfamiliar with the Project Read Program. Teacher assistants will receive training along with the staff members they will assist. Pre-service sessions and review sessions will be conducted on August 10, 11, and 12, 1971. Monthly meetings will be held throughout the year to re-enforce techniques, methods and concepts of the program by the project supervisor and consultants from BRL. Classroom visitation and demonstration lessons will be given by the supervisor and the consultants from Behavioral Research Laboratories.

G. Reading (Project Read) (Continued)

5. What are the plans for dissemination of any significant information gained in conjunction with this instructional area?

A report of the results and the reactions to the Project will be made by the project supervisor. Oral and written information will be shared with all schools and other persons concerned.

6. Are adequate facilities available to house this activity? If not, what arrangements are being made to house the activity?

Yes.

7. List the name(s) of the school(s) where this Title I activity will be carried out, the grade span at each school that will be included in this activity, the number of professional and sub-professional staff members employed in conjunction with this Title I instructional area, and the total number of students who will enroll in this activity at each school listed.

TITLE I STAFF MEMBERS

	Name of School	Grade Span	Professional	Para-Professional	Students
1.	Brandeis	4-6		2	90
2.	Breckinridge	4-6		1	60
3.	Byck	3-6		2	120
4.	Dolfinger	1-6		3	180
5.	Engelhard	3-6		2	120
6.	Kennedy	1-6		4	240
7.	Jones	3-6		1	90
8.	Lincoln	4-6		1	60

PROJECT BUDGET - DETAIL (CONT'D)

Code	Activity	Salary	Contracted Services	Other
214	1 Teacher, Secondary, Teenage Parents, 9 1/2 months, @ $778 per month	$ 7,391*		
214	14 Teachers, Secondary, Reduction of Class Size, 9 1/2 months, @ $800 per month, average salary	106,400*		
214	57 Teachers, Secondary, 9 1/2 months, @ $53 per month, Impact	28,700*		
215	4 Teachers, itinerant (resource), 9 1/2 months, @ $1,126 per month, average salary	42,788*		
215	1 Teacher, Audio-Visual, (resource), 9 1/2 months, @ $1,150 per month	10,930*		
215	18 Teachers, Reading Improvement, Elementary, 9 1/2 months, @ $1,069 per month, average salary	182,799*		
215	8 Teachers, Elementary, Impact, 9 1/2 months, @ $53 per month	4,028*		
216.02	9 Elementary Librarians, 9 1/2 months, @ $1,050 per month, average salary 10 Elementary Librarians, 9 1/2 months, @ $1,050 per month, (1/2 time), average salary	139,650*		
216.03	2 Secondary Counselors, 11 1/4 months, @ $1,205 per month, average salary	25,908*		

13. Reports Made by Local School Boards to the State Educational Agency

Description and Use

Nearly all states require local school districts to submit reports to the state educational agency. One such report, for membership and attendance, is discussed separately in this Appendix as item 8. Many states also require other reports. We list here those that we have run across.

Accreditation Reports

In Virginia, for example, an Accreditation Report must be submitted to the state agency on each elementary and secondary school in the state. Samples of the report questionnaires which principals must answer are at pages B40 through 46. Such a report should give you a good overview of a school's resources and program for comparative purposes. It is our understanding that these reports, in addition to whatever state use they are put, are also used by the regional accrediting associations which study individual schools for accreditation about every five years.

Teacher Daily Assignment Reports

In some states the district must submit a report annually on each teacher indicating the grade and class size taught and the school. In some cases these may be filled out by the teachers themselves. These reports could be used to check the number of teachers in a school, certification and class size.

Report on Program of Studies in Secondary Schools

Some states require districts to submit a detailed report on course offerings in each junior and senior high school. If your district uses Title I funds in such schools, this report may be useful

School:
Principal:

ACCREDITATION REPORT

Opening Date _____ Closing Date _____
Mo.--Day Mo.

This Year	Last Year	
		I. ADMINISTRATION AND ORGANIZATION

B. Are supervisory services available from the central office?
C. Are library services provided?
D.3 Are special education services available?
F. How many days are in the regular school session?
G. Length of school day by grade?

This Year

	K	1	2	3	4	5	6	7
Hours	-							
Minutes								

Last Year

	K	1	2	3	4	5	6
Hours							
Minutes							

H.1 Are fire drills held weekly during the first month of school?
H.1 Are fire drills held monthly after the first month of school?
H.2 Are two fire inspections, one each semester, conducted during the school year?
H.3 Are competitive sports of a varsity nature prohibited?
H.4 Are food items sold to children limited to those connected with the school lunch pr
H.5 Are fund-raising activities by children discouraged?
I.1 Is a cumulative record maintained for each child?
I.2 Is a record kept of assets and disbursements of school activity funds?
I.2 Are records of assets and disbursements audited annually?
I.3 Is an active file kept of:
  a. Written communications from the school board?
  b. Copies of reports to the school board office?
  c. Copies of correspondence?
J. Give the number of secretaries employed:
  a. full-time?
  b. part-time?
  c. full-time equivalent of b?
K. Is the custodial staff adequate to insure a clean, comfortable, and safe school?

II. QUALIFICATIONS OF SCHOOL PERSONNEL

H.1 Does each paraprofessional hold at least a high school diploma?
H.1 Is each paraprofessional assigned non-teaching duties?
H.2 Does the school division have written policies regarding employment and duties of p
sionals?
I. Does the school division have written policies related to classification, use, and emp
substitute teachers?

III. EQUIPMENT AND MATERIALS FOR INSTRUCTION

A.1 How many books are in the library?
A.2 How many magazines are in the library?
A.2 How many newspapers are in the library?
A.3 Amount budgeted for library materials?
A.4 Does the library contain professional resources for teachers?
B. Is appropriate audiovisual equipment immediately available for use in every cla
C.1 Are appropriate maps and globes immediately available for use in every classroom?
C.2 Are recordings, filmstrips, and other instructional materials organized and maintained
instructional materials center?
C.3 Is a variety of audiovisual instructional materials available to every classroom?

nis Last
ar Year

III. EQUIPMENT AND MATERIALS FOR INSTRUCTION (Continued)

C.4 Amount budgeted for instructional materials and supplies?
D.1 Are basal textbooks selected from the list approved by the State Board of Education?
D.2 Are teachers provided with a teachers' edition of each basal textbook?

IV. BUILDINGS AND GROUNDS

A.2 Are play areas and equipment adequate to insure a well-balanced program of physical education?
A.3 Is a plan of vehicular traffic control provided to insure safe and prompt movement of children, staff, and visitors?
A.4 Is the school site appropriately landscaped?
A.5 Are the United States and the Virginia flags properly displayed out-of-doors?
B.1 Does the design and construction of the building facilitate interior rearrangement to permit changes in educational programs?
B.2 Does the design and construction of the building reflect consideration for the school program, topography, climate, and maintenance?
B.3 Is a teachers' room provided?
B.4 Are storage facilities and teacher work areas, other than regular classrooms, available?
C.1 Number of kindergarten classrooms with:
less than 975 sq. ft.?
975 sq. ft. or more?
C.2 Number of regular classrooms (grades 1-3) with:
less than 825 sq. ft.?
825 sq. ft. or more?
C.2 Number of regular classrooms (grades 4-7) with:
less than 735 sq. ft.?
735 sq. ft. or more?
C.3 Does each classroom have clothing racks, book shelves, storage space for teaching materials, and provisions for use of maps, charts, and display surfaces?
D.1 Is a wholesome and sanitary cafeteria environment maintained?
D.2 Does the cafeteria include rest room facilities for cafeteria staff?
D.3 Are water coolers convenient to the dining area?
E. Assembly areas, physical education areas, and multipurpose rooms:
1. Are located on the main floor?
2. Have sufficient exits to accommodate seating capacity?
3. Can be closed off from the rest of the school plant?
4. Have access to toilets?
F. Does the administrative suite provide private space for:
1. Principal's office?
2. Record storage?
3. Secretarial help?
4. Rest room facilities?
G. Does the library include an instructional materials center?
G. Is there adequate space for the collection, organization, and circulation of materials?
H.1 Is provision made for isolating children who are ill?
H.2 Is the equipment necessary for physical inspection provided?
H.2 Are basic first-aid supplies provided?

V. PROGRAM

A.1 Is continuous evaluation of the program incorporated into the plan of curriculum develop[illegible]

This Year	Last Year

V. PROGRAM (Continued)

B. Is instruction provided in:
   1. Language Arts?
   2. Mathematics?
   3. Social Studies?
   4. Science?
   5. Health, Physical Education and Safety?
   6. Fine Arts?

J.1 Are opportunities provided for children to participate in:
   a. Dramatics?
   b. Safety patrols?
   c. Assembly programs?
   d. Field trips?
   e. Organized clubs?
   f. Pre-vocational activities?
   g. Other?

J.2 Does the program make use of community resources?

J.3 Does the school board provide financial assistance for field trips?

K.1 Was a summer school offered?
   a. Number of weeks?
   b. Length of day:
      Hours?
      Minutes?
   c. Total enrollment of summer school?
   d. For what purposes was summer school basically designed?
      Promotional
      Remedial
      Enrichment
   e. What grades were involved?

This Year

PK	K	1	2	3	4	5	6	7

Last Year

PK	K	1	2	3	4

VI. SUPPLEMENTARY INFORMATION

What organizational plans are used for instruction?

This Year

	K	1	2	3	4	5	6	7
1. Self-contained								
2. Team Teaching								
3. Ungraded								
4. Departmentalized								
5. Other								

Last Year

K	1	2	3	4	5

APPENDIX A

NARRATIVE REPORT

1. What are the outstanding strengths of the instructional program as identified by the staff?

2. What are the needs of the instructional program as identified by the staff?

3. Which of the identified needs has the staff selected for study during the current school year?

4. Describe plans, procedures, and resources to be used in the study during the current school year?

_____

Principal

Division:
School:
Principal:

1970-71 PRELIMINARY SECONDARY SCHOOL ACCREDITATION REPORT Pa

Opening Date _____ Closing Date _____
Mo.–Day Mo.–Day

ENROLLMENT AS OF SEPTEMBER 30

	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Total
Boys								
Girls								
Total								

Enrollment in grades 1-5 of this school: Grade 1: (boys)_____(girls)_____ 2: (boys)_____(girls)_____
3: (boys)_____(girls)_____ 4: (boys)_____(girls)_____ 5: (boys)_____(girls)_____
Total (boys)_____(girls)_____ Total (boys and girls)_____

This Year	Last Year	
		1. Is there a written statement of philosophy and educational objectives?
		2. Do the principal and staff study and revise the philosophy and objectives as often as necessary?
		3. Have the school administration and faculty:
		a. formulated immediate plans for achieving educational objectives?
		b. formulated long-range plans for achieving educational objectives?
		c. re-examined plans yearly in light of changing needs of the community and pupils?
		4. Do transcripts issued by the school for graduates and transfer students clearly show that for graduation:
		a. 23 units of credit are required?
		b. 18 units of credit in 9th , 10th , 11th , and 12th -grade subjects are required?
		5. Are transfer students free of residency requirements for graduation if parents or guardians also m
		6. How many units are required for graduation?
		7. How many units are required for graduation in:
		a. 9th–, 10th–, 11th–, and 12th–grade subjects?
		b. English?
		c. mathematics?
		d. laboratory science?
		e. Virginia and U.S. History (above grade eight)?
		f. Virginia and U.S. Government (above grade eight)?
		g. World History and/or Geography?
		h. health and physical education?
		8. How many clock hours are required for one unit of credit?
		9. Does the guidance program provide for:
		a. a testing program?
		b. maintenance of permanent, cumulative student records?
		c. vocational guidance?
		d. educational guidance?
		e. personal counseling?
		f. assistance of students in planning a program of study?
		g. orientation of students?
		h. placement services?
		i. follow-up of former students?
		j. faculty utilization of student information?
		10. Do cumulative folders for students include records of scholarship, attendance, work experience, vocational preferences, and special aptitudes and interests?
		11. Is the library organized as a learning center and open to students during the entire school day?

This Year	Last Year	
		12. Does the library have or provide for:
		a. accurate and current records?
		b. a system of cataloging books and materials?
		c. an adequate card loan system?
		d. proper classification, marking, and shelving of books?
		e. filing, binding, or microfilming significant periodicals, and retaining them for 3 years?
		f. organization of nonbook materials in an attractive and functional manner?
		g. proper processing and housing of audio-visual materials?
		h. instructing students in the use of the library?
		i. a carefully selected collection of pamphlets, pictures, etc.?
		13. How many well-selected and appropriate books are in the library's basic collection, exclusive of text and reference books?
		14. How many sets of encyclopedias copyrighted within the last 5 years are in the library?
		15. How many sets of encyclopedias copyrighted within the last 10 years are in the library?
		16. How many unabridged dictionaries from different publishers are in the library?
		17. Does the school subscribe to newspapers of local, state, and national coverage?
		18. How many periodicals are subscribed to by the library?
		19. Is a professional library provided for teachers?
		20. How many books are in the professional library?
		21. How many professional journals are in the professional library?
		22. What is the total appropriation for books, periodicals, supplies, binding, etc.?
		23. If the school is in its first year of operation, were sufficient funds allocated in advance to assure that 50 percent of the minimum required basic library collection would be ready for circulation during the first year?
		24. Is a definite program for improving instruction in effect?
		25. Is a continuous, relevant program of professional growth activities in effect?
		26. Is the faculty engaged in the identification and solution of problems within the school?
		27. Is the school schedule:
		a. flexible?
		b. designed to serve the current and future needs and interests of students?
		c. made available to all teachers, staff personnel, and students in order to provide for its implementation?
		d. conceived as a cooperative project involving administrators, guidance personnel, teachers, and students?
		28. How long is the school day, exclusive of lunch periods?
		29. How many days of classroom instruction are in the school term?
		30. What percentage of the combined time of the principal and assistant principal(s) is devoted to supervising instruction?
		31. Is full-time clerical assistance provided in the library?
		32. How many professionally qualified persons are assigned to the library, excluding the librarian?
		33. Are the services of staff, home, and community agencies utilized in the guidance program?
		34. Is at least one member of the guidance staff employed for a minimum of 11 months per year?
		35. Provide the number of special service personnel in each category:
		a. nurses?
		b. psychologists?
		c. speech therapists?
		d. other special service personnel?
		36. How many secretaries are employed:
		a. full-time?
		b. part-time?
		c. full-time equivalents of b?

This Year	Last Year	
		37. How many custodians are employed: a. full-time? b. part-time? c. full-time equivalents of b?
		38. Are adequate storage space and facilities for custodial services provided?
		39. Are records of school activity funds maintained in accordance with regulations of the State Boa Education and the local school board?
		40. Are school activity funds audited annually by an accountant approved by the local board and a c of the audit filed in the division superintendent's office?
		41. Does the school site include ample area to accommodate present and future needs?
		42. Is the site attractively landscaped and accessible?
		43. Are adequate space, facilities, and equipment provided for instruction in: a. practical arts? b. fine arts? c. vocational education? d. health and physical education? e. academic subjects?
		44. Is the building located, constructed, and equipped to accommodate an educational program to the needs of students and safeguard their health and safety?
		45. Is the administrative unit adequate and properly equipped to meet the needs of the school pers
		46. Does the guidance area provide space for private consultations, offices, storage, and displaying guidance materials?
		47. Are sufficient laboratories provided to permit at least 90 clock hours of laboratory instruction laboratory science courses?
		48. Are science laboratories and classrooms adequately designed and properly equipped for instruc all science classes?
		49. What is the seating capacity of the general library room?
		50. Is the general library room equipped to meet the needs of the students and faculty?
		51. a. Is the library designed to provide space for a workroom, office, periodical reading room, au visual room, and conference room? b. Are library facilities properly equipped to encourage maximum use?

for investigating both comparability of services and supplanting.

Report on Extracurricular Activities in Secondary Schools

Some states require districts to submit for each junior and senior high school a report on extracurricular activities, including school clubs, intramural and interscholastic sports, dramatics, forensics and music events. This could be useful in the same manner as Program of Studies Report above, especially if extracurricular activities are paid for out of school funds.

14. Other Federal Project Applications or Federal Projects' Summary

Significance

Used with the HEW/OCR Directory, other federal program applications provide an alternate method of compiling Column 2 of the comparability report.

Description

Your local school district may have funds from other federal programs besides Title I. Each of these programs may require an application which will include a budget and a description of the program. Among these other programs are:

Other Titles of the Elementary and Secondary Education Act
Title II of the Economic Opportunity Act
Manpower Development Training Act
Vocational Education Act
Housing and Urban Development Act
Developmental Disability Act
Civil Rights Act of 1964
Crime Control and Safe Streets Act of 1968

National Defense Education Act

Social Security Act

Highway Safety Act

Youth Development-Delinquency Prevention Administration

Some school districts issue a summary document describing their various federal programs. The Louisville Independent School District prepares a pamphlet, "Federally Supported Projects and Programs" (several pages are shown on pages B49 and 50) describing their 17 different federally financed programs. In addition HEW requires many school districts to submit a detailed report annually on all federal programs. This is the HEW Consolidated Program Information Report, OE Form 4484. Apparently not all districts must submit this but large districts with many federal programs may be required to prepare this each year.

Use

The individual federal applications can be used to identify the various instructional staff persons and other instructional costs (books, supplies, etc.) funded from other federal sources. None of these expenditures should be reflected in the comparability report except funds from Public Law 81-874, which compensates for the financial impact on local schools of federal projects such as military bases. As mentioned earlier, the HEW/OCR Directory can be used for comparability comparisons if the federally supported teachers in each school included in Directory figures are subtracted. Various federal project applications may help determine how many federally funded teachers there are and where they are located. Bear in mind these revised totals combine a point-in-time source (HEW/OCR) with an estimate (program applications), and only general agreement with comparability report figures should be expected.

Page No.

The Education Professions Development Act

Career Education Project 9
Career Opportunities Program 10
Early Childhood Program 11
Personnel Services Staff Program 12
School Personnel Utilization (Project Transition) 12
Special Education/Language Arts/Social Studies Fellowship Program 13
Teacher Corps (Cycle VII) 14
Urban Education Center - Teacher Center 15
Urban/Rural School Development Program 15

The Elementary and Secondary Education Act

Title I, Project 08 (1972-73) 16
Project READ 17
Title I, Part C
Darcee Kindergarten Programs 18
Title II, Purchase of Library Resources, Textbooks and Other Instructional Materials 19
Talking Page 20
Title VI B, Extending and Enriching the Curriculum for Handicapped Children
Teaching of Orthopedic Tots (TOOT) 21
A Diagnostic Approach to Prescriptive Teaching (ADAPT) 21
Title VIII - Frederick Douglass Project 22

Federally Impacted Areas Act, PL 81-874

Funds for Federally Impacted Areas 23

H. E. W. - Youth Development Delinquency Prevention Administration

Alternative Programs 24

Title and Contact Person	Cost and Source of Funds	Period of Operation	Description and Objectives	Depts. or Schools Concerned
Alternative Programs Senior High Alternative Schools (Includes one central location and 3 "contract" schools) Junior High Alternative School (3 locations) Teenage Parents Program Training Institute for Paraprofessionals James B. Smith Director J. M. Meisburg Chairman F. O. Baker, Consultant	$320,000 Youth Development-Delinquency Prevention Administration (Adm. by HEW) Additional funding by Title I,ESEA and Ky. Crime Commission	1972-73 (2nd yr.)	The Alternative Programs of the Louisville Public Schools 1972-73 will build upon the lessons learned 1971-72. Additional funding has been secured to open a senior high school and extend the junior high and contract programs which were started in 1971-72. Alternative schools are designed to provide an alternative for pupils who, for whatever reason, are not succeeding in the regular school program. As an alternative to dropping out or, in some cases, to institutionalization, this program seeks to individualize instruction and help pupils discover value in some form of formal education. Instructors in alternative programs have wide latitude in planning and implementing learning activities. A number of supportive services are provided by the budget. The contract schools planned for three senior high locations will make it possible for some students to work part-time during school hours and remain enrolled for credit. Individualized instruction, largely with programmed materials, will be "contracted for" by the student in negotiations with the learning lab director. This instruction will be "competency-based." (Continued on Next Page)	All secondary schoc may send pupils. Talbert School (Senior High) Contract Schools (3 Senior high locations) Junior High School (3 Community locations) Teenage Parents Program (YWCA) Training Institute (Location not determined)

15. Miscellaneous Sources

Description and Use

Several other sources of information about Title I may be useful to your research. Among the others we have found are:

HEW annual audits of selected SEA's and selected LEA's (see the example on page B-52);

Newspaper reports (see the example on page B-53);

Studies done by other groups or individuals. For example, the Louisville Chamber of Commerce has commissioned a study of the school finance problems of the Louisville Public Schools ; or by professors or graduate students at universities in the state, civil rights groups, teachers unions, and,

Reports from the Superintendent of Schools to the School Board;

Members of public meetings, such as school board meetings (in which budgeting business is often discussed) or legislative hearings.

Although we certainly have not exhausted the possible sources, we suggest that as a general rule in dealing with school boards, parent committees and others who may have or know of relevant information, your last words should always be, "Where else could I find this information?"

Our Reference: BESE

Mr. John Bruce
Coordinator of Title I, ESEA
State Department of Education
Frankfort, Kentucky 40601

Dear Mr. Bruce:

This letter is a follow-up of the program review visitation conducted during the week of March 29-April 2, 1971, by Mr. John Pride, Mr. John Staehle, Mrs. Genevieve Dane and Mr. John Martin of my staff. The purpose of the visit was to review first-hand, the administrative arrangements for and the program operation of the Title I, Elementary and Secondary Education Act in Kentucky.

What follows is an analysis of our findings as a result of the review, including recommendations for strengthening the administration and operation of the Title I program.

ANALYSIS AND RECOMMENDATIONS

The review team was favorably impressed with the overall quality of the State's administration of the program. They felt your staff to be very qualified and dedicated to its work. You are to be commended on the leadership and direction which you and your staff are giving the Title I program.

There are several areas, however, which the review team felt merited further attention on the part of the SEA. Our comments and recommendations concerning these areas appear below.

Organization Structure and Staff

There are 7 professional staff and 2 full-time clerical staff assigned full time to the Bureaus of Finance and Administration, and Instructional Services whose full salaries are paid by Title I. The review team did not feel that these expenditures were justified in terms of benefit to the Title I program.

Continued From Page One

schools, 20.07 for junior highs, and 24.41 for elementary schools. At other schools the ratios were: 22.07 for high schools, 21.71 for junior highs and 26.96 for elementary schools.

✔ There were more teacher aides and other instructional personnel for each student in non-Title 1 junior high schools and elementary schools than in Title 1 schools. Title 1 highs had more non-certified personnel per pupil than other high schools.

School officials say they don't have a breakdown of per-school spending for federal funds, but it would increase the spending for each pupil even more at Title 1 schools.

Similar figures were not required for Jefferson County schools because of a difference in the distribution of pupils from low-income families among county schools.

...City School Budget Gives Special Priority To Low-Income Areas

10-5

By LINDA RAYMOND
Louisville Times Staff Writer

The Louisville school system spends substantially more per capita on schools with large numbers of low-income students than it does for schools in wealthier areas, according to figures prepared by city school officials.

The idea, one school official said, is to put the most money where the need is greatest.

As a result, high schools qualifying for federal Title 1 funds received an average of 25 per cent more state and local money per capita than schools in more affluent areas in the 1969-1970 school year.

Some schools received substantially more. Shawnee High School, for example, received 35 per cent more per pupil than the average for non-Title 1 hig schools.

The average for junior highs receivin Title 1 funds was about 13 per ce higher than other schools, and the ave age for Title 1 elementary schools wa about 10 per cent higher.

Title 1 funds are provided under th Elementary and Secondary Education Ac to give compensatory education to chi dren from low-income families.

Federal regulations require that scho systems spend at least as much fo schools with large numbers of low-incom students as they do for schools in mor affluent areas. The federal funds ar supposed to go on top of that state an local money to give these children extr benefits to make up for some of wha they lack at home.

Civil-rights groups have complaine some school systems skimp on spendin for poorer schools, then use the federa money to bring the per-pupil expendi tures up to the level of wealthier neigh borhoods.

New federal regulations requirin school districts to break down their per pupil expenditures on a school-by-schoo basis are apparently part of a drive to eliminate those abuses.

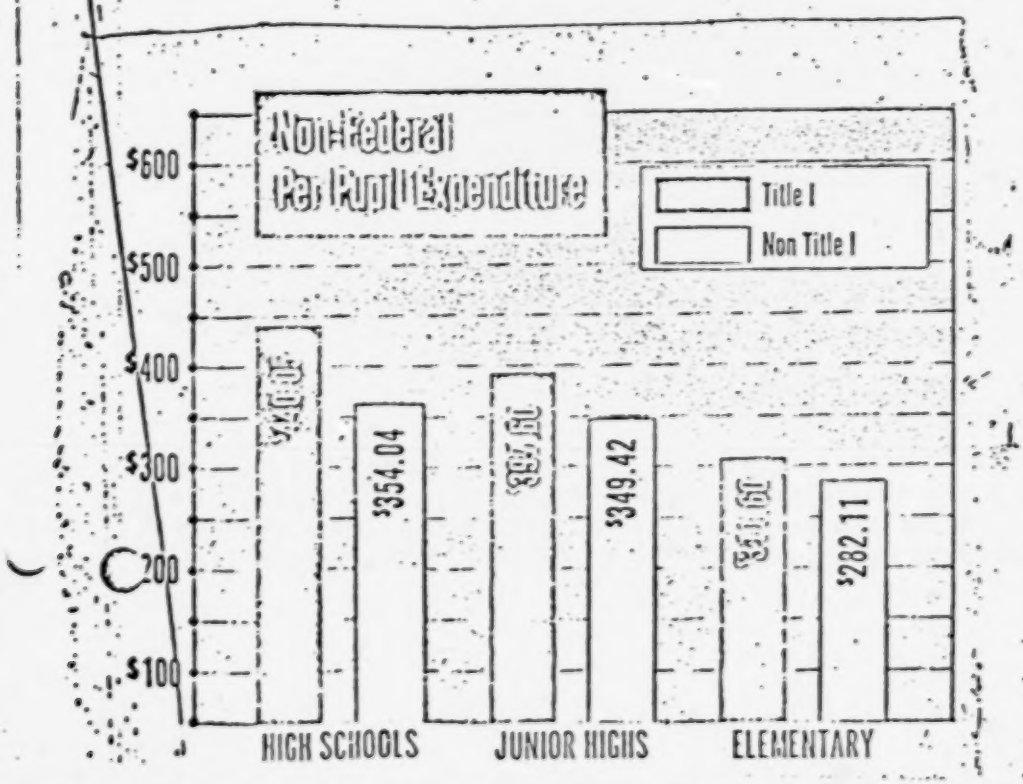
The Louisville figures, prepared for a federal report, show the city system exceeds the federal requirements, a sit uation described by a spokesman for the U.S. Department of Health, Education and Welfare (HEW) as unusual but no unique.

Specifically, the figures showed:

✔ The average expenditure for teach ers' salaries and other instructional costs (not including building maintenance and the like) was $575 per pupil for Title 1 high schools, $469.40 for other high schools. Among junior high schools, the per pupil expenditures were $490.81 for Title 1 schools, $433.37 for others. At the elementary level it was $402.38 for Title 1 schools, $352.09 for others.

When the amount teachers are paid for additional teaching experience is subtracted from the totals, the actual figures change, but the percentage difference between Title 1 schools and non-Title 1 schools stays about the same. For high schools, average per-pupil expenditures figured without longevity come to $[illegible]05 for Title 1 schools, $354.04 for [illegible]ers. Junior highs are $397.60 for Title 1, $349.42 for others, and elementary schools $311.60 for Title 1 schools, $282.11 for others.

✔ Pupil-teacher ratios for Title 1 schools were lower than for other schools. In Title 1 schools, the number of studen



APPENDIX C

SELECTED U. S. CODE PROVISIONS

RELATED TO THE ENFORCEMENT OF COMPARABILITY

§ 241e. Application for grants by local agency—Approval by State agency; considerations

(a) A local educational agency may receive a grant under this subchapter for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)—

(1) that payments under this subchapter will be used for programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this section, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families and (B) which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs and to this end involve an expenditure of not less than $2,500, except that the State educational agency may with respect to any applicant reduce the $2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this subchapter: *Provided*, That the amount used for plans for any fiscal year shall not exceed 1 per centum of the maximum amount determined for that agency for that year pursuant to section 241c of this title or $2,000, whichever is greater;

(2) that, to the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency has made provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate;

(3) that (A) the local educational agency has provided satisfactory assurance that the control of funds provided under this subchapter, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this subchapter, and that a public agency will administer such funds and property, (B) Federal funds made available under this subchapter will be so used (i) as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this subchapter, and (ii) in no case, as to supplant such funds from non-Federal sources, and (C) State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this subchapter: *Provided*, That any finding of noncompliance with this clause shall not affect the payment of funds to any local educational agency until the fiscal year beginning July 1, 1972, and *Provided further*, That each local educational agency receiving funds under this subchapter shall report on or before July 1, 1971, and on or before July 1 of each year thereafter with respect to its compliance with this clause;

* * * * * * * * *

(6) that effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children;

(7) that the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this subchapter, including information relating to the educational achievement of students participating in programs carried out under this subchapter, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

(8) that the local educational agency is making the application and all pertinent documents related thereto available to parents and other members of the general public and that all evaluations and reports required under paragraph (7) shall be public information;

• • • • • • • • • •

(10) that effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

• • • • • • • • • •

(12) in the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together;

• • • • • • • • • • •

§ 241f. Assurances from States; action by Commissioner on applications

(a) Any State desiring to participate under this subchapter (except with respect to the program described in section 241e(c) of this title relating to migratory children of migratory agricultural workers) shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance—

(1) that, except as provided in section 241g(b) of this title, payments under this subchapter will be used only for programs and projects which have been approved by the State educational agency pursuant to section 241e(a) of this title and which meet the applicable requirements of that section and of section 241c(a) (5) of this title, and that such agency will in all other respects comply with the provisions of this subchapter, including the enforcement of any obligations imposed upon a local educational agency under section 241e(a) of this title;

(2) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this subchapter; and

(3) that the State educational agency will make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 241e(a) (6) of this title and of research and replication studies) evaluating the effectiveness of payments under this subchapter and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this subchapter (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

• • • • • • • • • •

§ 241j. Withholding funds for non-compliance with assurances

Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 241e (c), 241f(b), or 241h—1(b) of this title, the Commissioner shall notify the agency that further payments will not be made to the State under this subchapter (or, in his discretion, that the State educational agency shall not make further payments under this subchapter to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this subchapter, or payments by the State educational agency under this subchapter shall be limited to local educational agencies not affected by the failure, as the case may be.

APPENDIX D

REQUIREMENTS IN CODE OF FEDERAL REGULATIONS

Part 116, Subpart C - Project Applications

§116.17 — Project Covered by an Application.

a) An application for a grant under Title I of the Act by a local educational agency (other than a State agency directly responsible for providing free public education for handicapped children or for children in institutions for neglected or delinquent children) shall set forth a project for educationally deprived children residing in a project area composed of school attendance areas having high concentrations of children from low-income families or a project for serving children living in institutions for neglected or delinquent children, which project shall have been designed specifically to meet special educational needs of those educationally deprived children. The project itself shall be carried out at locations where the needs of the educationally deprived children can best be served. It may involve the participation of educationally deprived children residing outside the project area if such a participation will not dilute the effectiveness of the project with respect to children residing in the project area.

* * * * * * * *

d) A school attendance area for either a public elementary or a public secondary school may be designated as a project area if the estimated percentage of children from low-income families residing in that attendance area is as high as the percentage of such children residing in the whole of the school district, or if the estimated number of children from low-income families residing in that attendance area is as high as the percentage of such children residing in the whole of the school district, or if the estimated number of children from low-income families residing in that attendance area is as large as the average number of such children residing in the several school attendance areas in the school district. In certain cases, the whole of a school district may be regarded as an area having a high concentration of such children and be approved as a project area, but only if there are no wide variances in the concentrations of such children among the several school attendance areas in the school district.

* * * * * * * *

f) The project for which an application for a grant is made by a local educational agency should be designed to meet the special educational needs of those educationally deprived children who have the greatest need for assistance. However, none of the educationally deprived children who are in need of the special educational services to be provided shall be denied the opportunity to participate in the project on the ground that they are not children from low-income families or on the ground that they are not attending school at the time.

g) Each such project must be tailored to contribute particularly toward meeting one or more of the special educational needs of educationally deprived children and should not be designed merely to meet the needs of schools or of the student body at large in a school or in a specified grade in school.

h) Each application for a grant under Title I of the Act for educationally deprived children residing in a project area shall contain an assurance that the use of the grant funds (a) will not result in a decrease in the use for educationally deprived children residing in that project area of State or local funds which, in the absence of funds under Title I of the Act, would be made available for that project area and that neither the project area nor the educationally deprived children residing therein will otherwise be penalized in the application of State and local funds because of such a use of funds under title I of the Act. (b) No project under title I of the Act will be deemed to have been designed to meet the special educational needs of educationally deprived children unless the Federal funds made available for that project (1) will be used to supplement, and to the extent practical increase, the level of State and local funds that would, in the absence of such Federal funds, be made available for the education of pupils participating in that project; (2) will not be used to supplant State and local funds available for the education of such pupils: and (3) will not be used to provide instructional or auxiliary services in project area schools that are ordinarily provided with State and local funds to children in nonproject area schools.

i) No application for a project grant under Title I of the Act may cover the construction of school facilities unless such construction is demonstrated as being essential in order to assure the success of a program or project under Title I of the Act. If the construction of school facilities is so demonstrated as being essential for a program or project, the application must nevertheless comply with

other requirements of Title I of the Act and the regulations in this part, such as the requirements in §116.21 in regard to labor standards and overall State construction planning and, in relation to the overall program, the requirements in §116.19 in regard to participation by children enrolled in private schools.

* * * * * * * *

m) An application for a project which involves the use of education aides shall include evidence that the local educational agency has provided, or will provide, a coordinated program for the joint training of the aides and the professional staff whom they will assist.

n) Each application by a local educational agency for a grant under title I of the Act shall include specific plans for disseminating information concerning the provisions of title I, and the applicant's past and present title I programs, including evaluations of such programs, to parents and to the general public and for making available to them upon request the full text of current and past title I applications, all pertinent documents related to those applications, evaluations of the applicant's past title I projects, all reports required by §116.23 to be submitted to the State educational agency, and such other documents as may be reasonably necessary to meet the needs of such parents or other members of the public for information related to the comprehensive planning, operation, and evaluation of the title I program but not including information relating to the performance of identified children and teachers. Such plans shall include provision for the reproduction, upon request, of such documents free of charge or at reasonable cost (not to exceed the additional costs incurred which are not covered by title I funds) or provisions whereby persons requesting such copies will be given adequate opportunity to arrange for the reproduction of such documents.

o) (1) Parental involvement at the local level is deemed to be an important means of increasing the effectiveness of programs under title I of the Act. Each application of a local educational agency (other than a State agency directly responsible for providing free public education for handicapped children or for children in institutions for neglected and delinquent children) for assistance under that title, therefore, (i) shall describe how parents of the children to be served were consulted and involved in the planning of the project and (ii) shall set forth specific plans for continuing the involvement of such parents in the further planning and in the development and operation of the project.

(2) Each local educational agency shall, prior to the submission of an application for fiscal year 1972 and any succeeding fiscal year, establish a council in which parents (not employed by the local educational agency) of educationally deprived children residing in attendance areas which are to be served by the project, constitute more than a simple majority, or designate for that purpose an existing organized group in which such parents will constitute more than a simple majority, and shall include in its application sufficient information to enable the State educational agency to make the following determinations:

(i) That the local educational agency has taken appropriate measures to insure the selection of parents to the parent council who are representative (a) of the children eligible to be served (including such children enrolled in private schools) and (b) of the attendance areas to be included in the title I program of such agency;

(ii) That each member of the council has been furnished free of charge copies of title I of the Act, the Federal regulations, guidelines, and criteria issued pursuant thereto, State title I regulations and guidelines, and the local educational agency's current application; and that such other information as may be needed for the effective involvement of the council in the planning, development, operation and evaluation of projects under said title I (including prior applications for title I projects and evaluations thereof) will also be made available to the council;

(iii) That the local educational agency has provided the parent council with the agency's plans for future title I projects and programs, together with a description of the process of planning and developing those projects and programs, and the projected times at which each stage of the process will start and be completed;

(iv) That the parent council has had an adequate opportunity to consider the information available concerning the special educational needs of the educationally deprived children residing in the project areas, and the various programs available to meet those needs, and to make recommendations concerning those needs which should be addressed through the title I program and similar programs;

(v) That the parent council has had an opportunity to review evaluations of prior title I programs and has been informed of the performance criteria by which the proposed program is to be evaluated;

(vi) That the title I program in each project area includes specific provisions for informing and consulting with parents concerning the services to be provided for their children under title I of the Act and the ways in which such parents can assist their children in realizing the benefits those services are intended to provide;

(vii) That the local educational agency has adequate procedures to insure prompt response to complaints and suggestions from parents and parent council;

(viii) That all parents of children to be served have had an opportunity to present their views concerning the application to the appropriate school personnel, and that the parent council has had an opportunity to submit comments to the State educational agency concerning the application at the time it is submitted, which comments the State educational agency shall consider in determining whether or not the application shall be approved.

(3) The State educational agency may establish such additional rules and procedures, not inconsistent with the provisions of this section, as may be reasonably necessary to insure the involvement of parents and the proper organization and functioning of parent councils.

* * * * * * * *

§116.18 — Size, Scope, and Quality of Projects.

a) Each application by a State or local educational agency for a grant (other than one for a planning project) must propose projects of sufficient size, scope and quality as to give reasonable promise of substantial progress toward meeting the needs of educationally deprived children for whom the projects are intended. The program of a local educational agency must involve the expenditure of at least $2,500 or such lesser amount as may be set by the State educational agency upon its determination that it would be impossible, for such reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting that dollar requirement. The budget for a project shall avoid imprudent, extravagant or wasteful expenditures which would tend to defeat the intent of the Act to meet the special educational needs of educationally deprived children.

The project application must justify any proposed expenditures above the level of expenditures by the applicant for other comparable activities.

b) Each application for a grant (other than one for a planning project) or for payments to the Department of the Interior shall provide an assessment of the special educational needs of the educationally deprived children who would be eligible to receive benefits under Title I of the Act or incorporate by reference the assessment contained in a prior application. Each such application for a grant shall describe the objectives of the project in relation to those special educational needs. It must demonstrate that the project has been sufficiently well planned to meet those objectives and that the project makes adequate provision for its implementation in an effective manner.

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e) Applications for grants (other than those for planning projects) or payments are to be concentrated on a limited number of educationally deprived children so as to give reasonable promise of promoting to a marked degree improvement in the educational attainment, motivation, behavior or attitudes of children.

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§116.19 — Participation by Children Enrolled in Private Schools.

a) Each local education agency shall provide special educational services designed to meet the special educational needs of educationally deprived children residing in its district who are enrolled in private schools. Such educationally deprived children shall be provided genuine opportunities to participate therein consistent with the number of such educationally deprived children and the nature and extent of their educational deprivation. The special educational services shall be provided through such arrangements as dual enrollment, educational radio and television, and mobile educational services and equipment. Such opportunities shall be made available to those educationally deprived children who reside in the public school attendance area designated as the project area or in a geographical area reasonably coterminous with the project area. If it is not practicable to apply a project to children enrolled in private schools because they are enrolled in a private school located in another school district, the applicant may make arrangements for such children with the local educational agency serving such other school district,

including where appropriate the making of a joint project application.

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e) Public school personnel may be made available on other than public school facilities only to the extent necessary to provide special services (such as therapeutic, remedial, or welfare services, broadened health services, school breakfasts for poor children, and guidance and counseling services) for those educationally deprived children for whose needs such special services were designed and only when such services are not normally provided by the private school. The application for a project including such special services shall provide assurance that the applicant will maintain administrative direction and control over those services. Subject to the provisions of §116.20, mobile or portable equipment may be used on private school premises for such period of time within the life of the current project for which the equipment is intended to be used as is necessary for the successful participation in that project by educationally deprived children enrolled in private schools. Provisions for special educational services for educationally deprived children enrolled in private schools shall not include the paying of salaries for teachers or other employees of private schools, except for services performed outside their regular hours of duty and under public supervision and control, nor shall they include the using of equipment other than mobile or portable equipment on private school premises or the constructing of private school facilities.

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§116.20 — Title to Property and Control Over Funds.

****b) Equipment acquired with funds provided under Title I of the Act may, in certain cases, be placed on private school premises for a limited period of time, but the title to and administrative control over such equipment must be retained and exercised by a public agency. In exercising that administrative control, the public agency shall not only keep records of, and account for, the equipment but shall also assure itself that the equipment is being used solely for the purposes of the project, and remove the equipment from the private school premises when necessary to avoid its being used for other purposes or when it is no longer needed for the purposes of the project.

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§116.21 -- Requirements with respect to Construction.

****f) The State educational agency shall not approve a project involving construction of school facilities if it finds that such construction would lead to, or would tend to maintain, the cultural or linguistic isolation of children.

§116.22 — Provision for Measurement of Educational Achievement and Evaluation of Programs.

a) Each application by a State or local educational agency or by the Department of the Interior shall describe the procedures and techniques to be utilized in making at least annually an evaluation of the effectiveness of its program under Title I of the Act in meeting the special educational needs of educationally deprived children, including appropriate objective measurements of educational achievement.
b) The measurement of educational achievement under such a program shall include the measuring or estimating of educational deprivation of those children who will participate in the program and the comparing, at least annually, of the educational achievement of participating children with some objective standard or norm. The type of measurement used by a local educational agency should give particular regard to the requirement that the State educational agency report to the Commissioner on the effectiveness of the programs in that State in improving the educational achievement of educationally deprived children.
c) The evaluation of programs and projects should, consistent with the nature and extent of participation by children enrolled in private schools, be extended to such participation.

§116.23 -- Reports by Local Educational Agencies

Each application by a local educational agency (including a State agency directly responsible for providing free public education for handicapped children or for children in institutions for neglected or delinquent children) shall provide assurance that it will render to the State educational agency an annual report and such other reports, in such form, and containing such information as may be reasonably necessary to enable the State educational agency to perform its duties under Title I of the Act, including the measurements of educational achievement and program effectiveness required by §116.22. The local educational agency shall keep such program and

fiscal records, and afford such access thereto, as the State educational agency may find necessary to assure the correctness and verification of such reports and the expenditure of funds granted under Title I of the Act.

§116.24 — Relation to Other Programs.

a) Each application for a grant under Title I of the Act shall demonstrate that, in the development of the program or project, the applicant has taken into consideration those benefits that are or may be made available for the affected children through various agencies of the Federal Government, as well as through State and local agencies and private nonprofit organizations, and has coordinated the program or project with programs available through such agencies or organizations, including community action programs under Title II (42 U.S.C. 2781-2831) of the Economic Opportunity Act of 1964 and shall further demonstrate that there will be similar coordination in the operation of the program or project. The purpose of the foregoing is to avoid a duplication of benefits and to assure the most effective use of funds under Title I of the Act toward meeting the special educational needs of educationally deprived children.

b) Each application by a State educational agency for a grant to establish or improve programs of education for migratory children of migratory agricultural workers shall demonstrate that in planning the program and the projects comprising that program there has been, and in carrying out such program and projects there will be appropriate coordination with programs administered under Part B of Title III (42 U.S.C. 2861) of the Economic Opportunity Act of 1964. Each such application shall also describe the manner in which the program and projects are coordinated with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such migratory children.

c) In the coordination with other programs the commingling of funds under Title I of the Act with funds under such other programs is not authorized, but the simultaneous use of funds under each of those programs to finance identifiable portions of a single project is permitted.

d) The application by the Department of Interior for payment to meet the special educational needs of educationally deprived children on reservations serviced by elementary and secondary schools operated for Indian children shall contain an assurance that the program and projects have been developed in cooperation with appropriate Indian

representatives and community action agencies and that the program and projects will be coordinated with appropriate Federal, State, and local authorities and private nonprofit organizations.

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§116.26 - Comparability of Services.

a) A State educational agency shall not approve an application of a local educational agency (other than a State agency directly responsible for providing free public education for handicapped children or for children in institutions for neglected or delinquent children) for the fiscal year 1972 and subsequent fiscal years unless that agency has filed, in accordance with instructions issued by the State educational agency, information as set forth in paragraphs (b) and (c) of this section upon which the State educational agency will determine whether the services, taken as a whole, to be provided with State and local funds in each of the school attendance areas to be served by a project under title I of the Act are at least comparable to the services being provided in the school attendance areas of the applicant's school district which are not to be served by a project under said title I. For the purpose of this section, State and local funds include those funds used in determinations of fiscal effort in accordance with §116.45.

b) The State educational agency shall require each local educational agency, except as provided under paragraph (d) of this section, to submit data, based on services provided from State and local expenditures for subparagraphs (2) through (7) of this paragraph, for each public school to be served by a project under title I of the Act and, on a combined basis, for all other public schools in the district serving children in corresponding grade level, which schools are not served by projects under that title. Such data shall show (1) the average daily membership, (2) the average number of assigned certified classroom teachers, (3) the average number of assigned certified instructional staff other than teachers, (4) the average number of assigned noncertified instructional staff, (5) the amount expended for instructional salaries, (6) the amount of such salaries expended for longevity pay, and (7) the amounts expended for other instructional costs, such as the costs of textbooks, library resources, and other instructional materials, as defined in §117.1(i) of this chapter; and such other information as the State educational agency may require and utilize for the purpose of determining comparability of services under this section. The data so provided shall be data for the second fiscal year preceding the fiscal year in which the project applied for under said title I is to be carried out unless a local educational agency finds that it has more recent adequate

data from the immediately preceding fiscal year which would be more suitable for the purpose of determining comparability under this section.

c) The data submitted by the local educational agency based on services provided with State and local expenditures, shall, in addition to the information required under paragraph (b) of this section, show for each public school serving children who are to participate in projects under title I of the Act and for the average of all public schools in the school district serving corresponding grade levels but not serving children under title I of the Act, on the basis of pupils in average daily membership;

(1) The average number of pupils per assigned certified classroom teacher;

(2) The average number of pupils per assigned certified instructional staff member (other than teachers);

(3) The average number of pupils per assigned noncertified instructional staff member;

(4) The amounts expended per pupil for instructional salaries (other than longevity pay); and

(5) The amounts expended per pupil for other instructional costs, such as the costs of textbooks, library resources, and other instructional materials.

The services provided at a school where children will be served under said title I are deemed to be comparable for the purposes of this section if the ratios for that school determined in accordance with subparagraphs (1), (2), and (3) of this paragraph do not exceed 105 percent of the corresponding ratios for the said other schools in the district, and if the ratios for that school determined in accordance with subparagraphs (4) and (5) of this paragraph are at least 95 percent of the corresponding ratios for said other schools. State educational agencies may, subject to the approval of the Commissioner, propose and establish criteria, in addition to those specified in this section, which must be met by local educational agencies.

d) The State educational agency shall not approve project applications under title I of the Act for fiscal year 1972 unless the applicant local educational agency has submitted the data required by paragraphs (b) and (c) of this section. Such data must be submitted to the State educational agency no later than July 1, 1971, and July 1 of each year thereafter. In the case of local educational agencies the data for which indicate a failure to meet the standards for comparability described in this section, such applications must indicate how such comparability will be achieved by the beginning of fiscal year 1973. Applications for fiscal year 1973 and succeeding fiscal years shall not be approved unless the State educational agency (1) finds, on the basis of the data submitted, that the local educational agency has achieved comparability (as described in this section) and has filed a satisfactory assurance that such

comparability will be maintained, or, (2) in the case of a local educational agency the data for which indicate a failure to meet such standards of comparability, receives from that local educational agency information with respect to projected budgets, staff assignments, and other pertinent matters showing that comparability will be achieved by the beginning of that fiscal year, together with a satisfactory assurance that such comparability will be maintained during the period for which such application is submitted. Notwithstanding the foregoing provisions no action shall be required of any local educational agency concerning the achievement of comparability with respect to subparagraphs (2) and (3) of paragraph (c) of this section if less than the equivalent of a full time staff member would be required to achieve such comparability.

e) An agency which has an allocation of less than $50,000 for the fiscal year under parts A, B, and C of title I of the Act, and which is operating schools where children are not to be served under that title shall file a satisfactory assurance that it will use its State and local funds to provide services in its schools serving children who are to participate in projects under that title, which services are comparable to the services so provided in these schools serving children in corresponding grade levels which are not to be served by a project under that title. Such an agency shall also file the data required by paragraph (b) (1), (2), (3), and (4) of this section and the data required by paragraph (c)(1), (2), and (3) of this section.

f) The requirements of this section are not applicable to a local educational agency which is operating only one school serving children at the grade levels at which services under said title I are to be provided or which has designated the whole of the school district as a project area in accordance with § 116.17(d).

Subpart D -- Duties and Functions of State Educational Agencies

§116.31 — Participation by States.

****c) The application for participation by the State in the grant program shall contain an assurance of the State educational agency that each application by a local educational agency (including a State agency directly responsible for providing free public education for handicapped children or for children in institutions for neglected or delinquent children) approved by the State educational agency will comply with the requirements of Title I of the Act and the regulations in subpart C of this part, that the State educational agency will require each such local educational agency to carry out all assurances given by it in, and to perform all obligations imposed on it in connection with, its approved applications for grants, and that the State educational agency will in all other respects comply with the requirements imposed on it by Title I of the Act and the regulations in this part.

d) The application for participation by the State in the grant program shall contain an assurance that fiscal control and fund accounting procedures will be adopted to assure the proper disbursement of, and accounting for, Title I funds paid to the State, including such sums as may be paid to State and local educational agencies with respect to approved projects.

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f) Each application by a State educational agency shall contain an assurance that it will make periodic reports to the Commissioner evaluating the effectiveness of the programs and projects of State and local educational agencies, and the use by such educational agencies of grants under Title I of the Act, in improving the educational attainment of educationally deprived children. Such reports shall include the results of objective measurements of educational achievement under the programs of the several participating educational agencies with particular reference to progress made toward meeting the special educational needs of educationally deprived children.

g) Each application by a State educational agency shall contain an assurance that it will make such other reports to the Commissioner as he may reasonably require from time to time to enable him to perform his duties under Title I of the Act. Such reports shall include a disclosure of any allegations of substance which may be made by local educational agencies or private individuals or organizations of actions by State or local educational agencies contrary to the provisions of Title I of the Act or the regulations in this part, a summary of the result of any investigations made or hearings held with respect to those allegations, and a statement of the disposition by the State educational agency of those allegations. It is recognized that the responsibility with respect to the resolution of such matters rests, in the first instance, in the State educational agency.

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Subpart F — General Provisions

§116.53 — Allowable Expenditures.

c) Federal funds made available under Title I of the Act to local educational agencies and to State educational agencies may be used only for those expenses which are incurred as a result of the grant program under that title. They include expenses such as those for:...

(7) Acquisition (by purchase or lease) and maintenance and repair of necessary equipment;

...(9) The rental of office space in privately and publicly owned buildings for use in the administration of the program under Title I of the Act, subject to the following provisions:

(i) The expenditures for the space are necessary for and properly related to the efficient administration of the program;

(ii) The State will receive the benefits of the expenditures during the period of occupancy commensurate with such expenditures;

(iii) The amounts paid are not in excess of comparable rental in the particular locality;

(iv) In the case of a publicly owned building, like charges are made to other State or local agencies occupying similar space for similar purposes;

(10) The acquisition of leasehold and other interests in land necessary for educational agencies to carry out approved projects successfully; and
(11) In exceptional cases, the construction of buildings, and the structural alteration of existing buildings.

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§116.55 — Inventories of Equipment.

****b) Each State educational agency and each local educational agency shall maintain inventories of all other equipment it has acquired with funds under Title I of the Act and costing $100 or more per unit for the expected useful life of the equipment or until its disposition.

APPENDIX E

Title I Program Guide #44

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

ESEA Title I Program Guide #44
DCE/P&P

TO : Chief State School Officers March 18, 1968

FROM : Harold Howe II
U.S. Commissioner of Education

SUBJECT: Revised Criteria for the Approval of Title I, ESEA, Applications from Local Educational Agencies (Supersedes Program Guide #36)

State educational agencies may approve grants to local educational agencies under Title I only upon application and after making certain determinations which, "consistent with such basic criteria as the Commissioner may establish," meet the requirements of Section 105(a). Also, Section 803(c) of the ESEA, as amended, states that the Commissioner shall require the adoption by State and local authorities of effective procedures for the coordination of all ESEA programs with other public and private programs, including community action programs, having the same or similar purposes. The revised criteria (attached) reflect the requirements of both Sections 105(a) and 803(c).

The revised criteria are based on the law and are derived from the regulatio They consist, essentially, of two types of statements; (a) those requiring specific determinations with respect to size, scope, and quality of program, participation of private school children, evaluation, dissemination, and the training of education aides; and (b) items requiring a showing by the applicant that in preparing its application it has taken into account certain priorities such as the various needs of educationally deprived children, the need for both regular school year and summer programs, and the relationship of the Title I program to the regular school program.

The criterion (Item VII) in Program Guide #36 on construction and equipment has been superseded by two separate criteria, one on construction and another on equipment. The explanatory sentence referring to a specific percentage of total project costs to be budgeted for equipment and construction has been deleted.

The criteria (numbered and underlined) and the accompanying explanations of factors to be considered in the development of approvable projects, along with this letter of transmittal, have been prepared for distribution by State offices to local educational agencies. Please let us know of your arrangements for such a distribution in your State.

Attachment

cc: State Title I Coordinators, ESEA

Criteria for Applications for
Grants to Local Educational Agencies
under Title I, ESEA

Title I of the Elementary and Secondary Education Act of 1965 requires that the State educational agency make certain determinations "consistent with such basic criteria as the Commissioner may establish. . . ."

These determinations must be made with respect to: selection of project areas; size, scope, and quality of projects and their potential for meeting the needs of educationally deprived children; participation of children enrolled in private schools; coordination of the Title I program with other programs having the same objectives; dissemination of information; methods and procedures for evaluating the results of the program; and the training of education aides.

The following criteria are based on the law and the regulations and were formulated to meet the need for a set of general statements of the essential characteristics of an approvable Title I program. Each criterion (numbered and underlined) is stated as an affirmative "finding" and is followed by an explanation of some of the factors to be considered in developing a program that will meet the criterion.

Each local educational agency should review its Title I program to be sure that none of these criteria has been overlooked before submitting an application to the State educational agency for its approval.

The State educational agency will review the application and advise the applicant which criteria, if any, have not been met. Unless the State educational agency finds that each criterion has been met, the application may not be approved.

1. THE SELECTION OF ATTENDANCE AREAS FOR TITLE I PROJECTS

1.1 The attendance areas selected for Title I projects are those areas which on the basis of the best available information have high concentrations of children from low-income families.

Authority: 20 USC 241e(a)(1)

Section 105(a)(1) of Title I requires that projects be designed to meet the needs of educationally deprived children living in school attendance areas with high concentrations of children from low-income families. By regulation the attendance areas with high concentrations of children from low-income families are those areas where the concentration of such children is as high as or higher than the average concentration for the district as a whole.

An "attendance area" for the purposes of Title I is an area served by a public school. For each such attendance area data must be secured on (a) the total number of children who according to their ages are eligible to attend the public school serving that area and (b) the number of such children who are from low-income families.

In making this determination it is not necessary for the LEA to use a particular income level, although a level of $2,000 or $3,000 would be appropriate, but the same level should be used for all attendance areas. In some cases income data are not available or are out-of-date and the number of children from low-income families will need to be estimated on the basis of the number of such children who are in families receiving Aid to Families with Dependent Children (AFDC), or who are receiving free lunches. Housing, health, or employment statistics may also be used in estimating the number of children from low-income families in each attendance area. Whatever data are used must be used uniformly throughout an applicant's district.

Normally the attendance units should be ranked according to the percentage of children from low-income families. However, in districts with extremely large variation in the sizes of the populations of its attendance units, such units may be ranked according to the average number of children per attendance unit. If necessary for reasons of equity the attendance units determined to have high concentrations of children from low-income families may include some areas ranked on one basis and some on the other. In such a case, however, the total number of attendance areas accepted as eligible areas for Title I purposes should not exceed the number of such units that would have been eligible if only one basis, i.e., percentage or average number of children from low-income families, had been used.

Elementary and secondary school attendance areas in the same school district may be ranked separately on the basis of the percentage or numerical concentrations of children from low-income families among the children eligible to attend such schools.

In all cases the number of children considered eligible to attend a particular school consists of all children of the appropriate ages including children attending private schools and children who have dropped out of school.

In some cases a whole school district or a group of contiguous school attendance areas may be regarded as a single area of high concentration of children from low-income families. This may be done, however, only if there are no wide variances in the concentrations of children from low-income families.

Some schools have no well-defined attendance area boundaries or receive numbers of children from outside the areas that have been designated for those schools. It may be necessary to base the ranking of the attendance areas for such schools on the percentage or number of children from low-income families actually enrolled in those schools while recognizing that other children, as explained below, will be included in the "target population" if the area is found to have a higher than average concentration of children from low-income families.

The purpose of the attendance area requirement is to identify the "target populations" of children who are to be considered for participation in Title I activities on the basis of educational deficiency and need for special services. Thus, for schools without well-defined boundaries or where children have been transferring in or out on open enrollment or freedom-of-choice plans, the "target population" should include (a) all of the children who are attending the particular public school which on the basis of enrollment has a high concentration of children from low-income families; (b) children who have been attending that school; and (c) children who would be attending that school if they were not attending a private school or another public school under a freedom-of-choice, open enrollment, or another plan designed to bring about desegregation.

2. COMPREHENSIVE ASSESSMENT OF NEEDS

2.1 The priority needs of educationally deprived children in the eligible attendance areas (target populations) were determined in consultation with teachers, parents, private school authorities, and representatives of other agencies which have a genuine and continuing interest in such children. The evidence of need and the bases for the assignment of priorities have been documented.

Authority: 20 USC 241e(a)(1)

The term "educationally deprived children" has been defined in the Title I regulations as:

> ". . . those children who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age. The term includes children who are handicapped or whose needs for such special educational assistance result from poverty, neglect, delinquency, or cultural or linguistic isolation from the community at large." /45 CFR 116.1(i)/

The first step in the development of a compensatory program to meet the needs of such children is to evaluate the evidence concerning the educational deficiencies of children who live in the eligible attendance areas. If necessary, additional evidence should be secured before extensive programming is undertaken. The evaluation of the previous year's Title I program often provides considerable information concerning the educational deficiencies of children in the areas where Title I projects have been conducted. Specific attention should be given to the information available on educational retardation, results of educational tests, linguistic or racial isolation, welfare and nutrition, physical and mental handicaps, and other pertinent information on which the incidence and severity of the needs of children in the project areas can be established.

It is essential that public and private school teachers and other staff members, parents, and representatives of related programs and agencies be involved in the early stages of program planning and in discussions concerning the needs of children in the various eligible attendance areas. They are often able to corroborate or offer insights concerning the evidence of educational deficiencies. They will be much more likely to lend support to a program of special educational services if, as a result of their involvement, they understand the premises on which such a program is based.

Officials of community action, welfare, juvenile protection, and other agencies which have responsibilities for helping people--children or adults--overcome the effects of poverty are among those to be consulted concerning their views on the needs of the children in eligible attendance areas.

The objective of the consultations concerning the educational needs of children in the eligible attendance areas should be the development of a carefully documented list of needs in order of priority for the following groups of children:

Preschool Children

The general need for early diagnosis and for compensatory educational services for preschool children in predominantly low-income areas is widely recognized. Many of these children, while yet without regular school experience, already show a lack of intellectual and social growth. Unless they can be motivated and stimulated they are not likely to experience much success in their first years in the regular school program.

The applicant should definitely consider the needs of preschool children in planning its Title I program. Opportunities for children to participate in Project Head Start should be fully explored with the local community action agency, and full advantage should be taken of the availability of this resource. Where Head Start funds are not available or are insufficient, the applicant should give priority consideration to meeting the needs of preschool children through the use of Title I funds or, if possible, through the coordinated use of Head Start and Title I funds.

Community action groups are often interested in programs for preschool children, particularly if they are involved or have been involved as grantee agencies for Head Start programs funded under the Economic Opportunity Act of 1964. Every effort should be made to assist such groups to secure Head Start grants and thus reduce the demand for similar programs under Title I. In highly impoverished areas a community action agency may be able to provide health and welfare services for preschool children on the basis of financial need while the school-oriented program for all of the children of preschool age living in that area is provided under Title I.

Where Day Care Centers have been established for children in families receiving Aid to Families with Dependent Children (AFDC), the local educational agency in consultation with the Head Start program grantee should explore the possibility of their adding needed educational components to the programs to be conducted in those Centers.

Children in Early Elementary School

The needs of children in the early elementary school grades should be carefully assessed. These children already manifest in their behavior the intellectual and social deprivation that has characterized their lives. There is considerable evidence that special programs can be helpful for educationally deprived children in those grade groups. The development of such a program will require a careful assessment of the particular characteristics, behavioral patterns, and needs of the children who live in the applicant's eligible attendance areas.

Applicants should identify the needs of children in the early elementary school grades to preserve and build on progress they may have made in Head Start and Title I preschool classes. Priority consideration should be given by the applicant to such children in the Title I program in order to avoid interruption of needed enriched services, including health and welfare services which they had been receiving under Head Start or other quality preschool programs. Applicants should be encouraged to consider programs of instruction and services outlined in the criteria for the Follow Through program to assure that sequential learning experiences are made available to children based on preschool and kindergarten preparation for cognitive growth and development.

Children in Later Elementary School and Secondary School Years

It is in the later elementary and secondary school years that educational deficiencies become most apparent and most difficult to treat. By this time many of the children are no longer responding in any positive way to their school environment and are well on their way to becoming dropouts. Their academic and behavioral problems are extremely varied and complex and will require the most careful study in order to establish the needs on which an effective compensatory program can be developed. Remedial programs should be built on a thorough consideration of the potential of individualized instruction, tutoring and personalized guidance services.

Dropouts

The needs of children who have actually dropped out of the regular school program should also receive specific attention. With the help of other agencies these children should be located and identified and every effort should be made to evaluate their educational needs in order to provide a sound basis for the planning of special educational programs to meet those needs.

Children in Institutions

Children in institutions for neglected or delinquent children who have been counted in determining the applicant's allocation, even though they may not be living in an eligible attendance area, are to be considered as eligible for participation in Title I projects. Opportunities should be provided for the participation of such children in services designed to meet their needs.

Handicapped Children

The unmet needs of handicapped children should be considered. It is expected that such children will be included in Title I programs in project areas where the existing level of services for such children is recognized as being inadequate. Diagnostic procedures should be required as a part of all service programs for these children. Coordination with Title VI, ESEA, programs must be demonstrated.

Non-English Speaking Children

Every applicant should be aware of the needs of non-English speaking and bilingual children who live in the eligible attendance areas. Special efforts should be made to meet the needs of these children through Title I or through another program in order that they may learn to participate fully in the life of their community. The strengths of their ethnic backgrounds should be utilized in the development of special programs related to their needs.

The needs of the children in each of the foregoing groups should be stated in behavioral terms and, when appropriate, with reference to objective measures of educational growth or achievement. These needs must be set forth on the Title I application in order of priority.

3. PLANNING

3.1 The Title I program was planned as an integral part of a comprehensive compensatory educational program involving the coordinated use of resources from other programs and agencies.

Authority: 20 USC 241e(a)(1) and 883(c)

While the authority of Title I is directed solely toward the special needs of educationally deprived children, there are other programs and agencies which are also authorized to provide services to meet some of those same needs. It is important, therefore, when the priority needs of the children have been determined, that the various other agencies and program representatives be aware of those needs, particularly with respect to needs for improved nutrition, treatment and prevention of diseases and disabilities, and other needs indirectly related to the educational process.

Program representatives in the local educational agency and in the other interested agencies should develop the broad objectives for the comprehensive compensatory educational program. Once these objectives have been agreed upon, consultations should begin on the organization and utilization of all available resources to realize these objectives. This will require careful examination of the authority and responsibility of each of the various agencies. Each agency, however, should explore how it can most effectively, within its authority and responsibility, contribute to the realization of the objectives of the compensatory educational program.

Many of the other agencies involved in assessing the needs of children have been serving children and parents in various ways and may be receptive to new ideas about how their services can be more effective. If these agencies have new funds or are reprogramming the use of existing funds, it is very important that this be made known to the local public school authorities so that Title I funds are not inadvertently programmed for the same purposes.

The local educational agency itself should also examine the possibility of using other Federal grant programs, such as other titles of ESEA, NDEA, and EPDA, to meet the needs of children in the project areas. For some local educational agencies additional State funds or private funds may be available for this purpose. The Title I application should provide information concerning related programs and the specific provisions that will be made for coordination.

Some of the other agencies may have to follow economic criteria with respect to the selection of children and families for services, whereas the local educational agency must use educational criteria in selecting children from among those who live in areas that meet required economic criteria. Many of the same children, however, will be found to be in need of services on grounds of both economic and educational deprivation. Under these circumstances it is important that the agency with the major responsibility and the best resources deliver each of the needed services in coordination with, but without duplication of, the work of the other agencies.

Some program objectives, therefore, will be the primary responsibility of the local Title I program; others will fall to other Federal (direct grant or State plan) programs to be conducted by the local educational agency, to the federally financed programs of other agencies, to various State and local programs and, in some cases, to private agencies. If a Model Cities program or a Neighborhood Services Center is in operation or is being planned, the appropriate program representatives should be consulted concerning the need for the coordination of their programs with the compensatory education program.

The Title I application should present sufficient information to show that the resources available to the local educational agency and to other local agencies have been considered in planning the program and that where appropriate those resources have been committed to certain program objectives. The application should show not only the resources of other programs were considered in planning but also that there will be appropriate coordination of related services in the actual operation of a comprehensive program.

All proposals to provide health, nutrition, welfare, and recreation services under Title I should be fully justified on the basis that the resources of other agencies are not adequate to meet high priority needs for these services.

4. PROGRAM DESIGN

4.1 Consideration has been given to the relationship of the Title I program to the regular school program and to the possibility of modifying that program so as to provide a better base for the addition of supplementary compensatory educational services.

Authority: 20 USC 241e(a)(1)

Probably the most obvious indication of a child's need for special educational assistance under Title I is his inability to respond constructively to the regular school program. In many cases this program can be modified and integrated with the services to be

provided under Title I so as to provide the child with a total program adapted to his special needs. In this connection, the requirement that applicants maintain regular school programs in the project areas at the same levels as they would have been maintained if Title I funds were not available applies only to expenditures and not to the program itself.

The Title I program, if it is to be truly supplementary, must be designed to extend and reinforce the regular school program. Insofar as possible, the regular school program, the Title I program, and any other special programs should be designed as a total program to meet the needs of the children to be served. This may require revision of the regular school curriculum and will in any event require communication between regular school and Title I staff concerning their respective programs and the ways in which they can be improved to better meet the needs of the educationally deprived children involved in both programs.

4.2 The application shows that the Title I program is based on a consideration of the relative needs of children at all ages and grade levels and is designed to meet a limited number of high priority needs which cannot be met through the regular school program or other programs.

Authority: 20 USC 241e(a)(1)

Title I resources should be concentrated on those children who are most in need of special assistance. Normally this process will involve determinations of both the needs of individual groups of children and of the possibilities for success in working with those groups. Decisions should be made in terms of the effectiveness of providing comprehensive services to a limited number of children in a few groups as opposed to the ineffectiveness of spreading diluted services over all eligible children in all groups. Consideration must also be given to the availability of assistance from other agencies and programs for specific groups of children.

4.3 The Title I program is based on clearly stated objectives and desired outcomes and, if executed as planned, will very likely result in reduction of educational deficiency.

Authority: 20 USC 241e(a)(1)

The compensatory education objectives to be met through Title I should be clearly and realistically stated in terms of the types of changes that are sought and the degree of change that is expected by the end of the year as a result of each major activity. Where appropriate, reference should be made to evaluations of similar activities carried on during preceding years, the program changes that have been made as a result of such evaluations, and

the types of improved performance expected by the end of the new program year. As applicants gain more and more experience they should become more precise concerning what they expect to accomplish through their Title I programs.

4.4 Due consideration has been given to the provisions of Title I services not only during the regular school year but also during the summer.

Authority: 20 USC 241e(a)(1)

Applicants should examine closely the possibility for meeting urgent needs through summer programs. The summer period provides opportunities for new activities which, while designed to overcome educational deficiency, can be more specifically and extensively adapted to the needs of the children to be served. Special efforts should be made, however, to be sure that the children who participate receive assistance designed to continue the gains they have made in the preceding school year or to prepare them for the next school year's activities under the regular school or the Title I program.

4.5 Educationally deprived children enrolled in private schools will have genuine opportunities to participate in the Title I program on the basis of need as determined by the comprehensive assessment of the needs of all children in the eligible low-income areas. The high priority needs of private school children residing in those areas will be met with services that are comparable in scope and quality to those provided to meet the high priority needs of public school children.

Authority: 20 USC 241e(a)(2)

The applicant's assessment of needs of children at various grade and age levels must include the children in the eligible public school attendance areas who are enrolled in private schools. This assessment is to be carried out in consultation with private school authorities and to provide the basis for (a) determining the special services in which private school children will have genuine opportunities to participate, and (b) selecting the private school children for whom such services are to be provided.

The needs of private school children in the eligible areas may not be identical with those of public school children and, hence, may require different services and activities. Those services and activities, however, must be comparable in quality, scope, and opportunity for participation to those provided for public school children with needs of equally high priority. "Comparability" of services should be attained in terms of the numbers of educationally deprived children in the project area in both public and private schools and related to their specific needs, which in turn should produce an equitable sharing of Title I resources by both groups of children.

The application should provide sufficient evidence to assure the State educational agency that the local educational agency will maintain administrative direction and control over Title I activities conducted on private premises. Title I instructional activities and related services, the use of equipment, and all personnel performing services on private premises under the Title I program are to be under the active supervision of the applicant local educational agency.

4.6 The applicant's Title I program will be conducted in a limited number of eligible attendance areas and will provide relatively higher concentrations of services in areas having the highest incidence of poverty.

Authority: 20 USC 241e(a)(1)

The applicant should make sure that the needs of children in eligible areas with the highest incidence of poverty have been met before considering the needs of children in eligible areas in which the incidence is much lower. The program in the areas with the highest incidence should be designed to serve a larger proportion of children and to provide them with a greater variety of services than programs in areas with lesser incidences of poverty.

4.7 Title I services will be programmed so that those services will be concentrated on a limited number of children.

Authority: 20 USC 241e(a)(1)

The Title I program, if it is to have "sufficient size, scope, and quality to give reasonable promise of substantial progress," as required by the Act, must be concentrated on a limited number of children. Furthermore, it should be expected that each child will need not a single service but a variety of services which should be provided under Title I and, if possible, through other agencies.

The proposed Title I expenditure per child is an indication of the concentration of effort. The greater the concentration of effort, as indicated by investment per child, the greater the likelihood that the program will have a significant impact on the children in the program. The investment per child on an annual basis for a program of compensatory educational services which supplement the child's regular school activities should be expected to equal about one-half the expenditure per child from State and local funds for the applicant's regular school program. The investment per child per year for a program such as a preschool program which provides all of the services for the child involved should be expected to equal the applicant's full expenditure per pupil from State and local funds.

5. IMPLEMENTATION OF TITLE I PROGRAMS

5.1 The proposed staffing pattern is appropriate for the activities and services to be provided.

Authority: 20 USC 241e(a)(1)

The ratio of project staff to the number of children to be served should be high enough to provide concentrated, individualized services. Use should be made of a variety of personnel other than professional classroom staff. Parents of participating children, volunteers, and persons in the community with special skills should be considered in the selection of the staff needed to provide the specified services.

5.2 Inservice training will be geared specifically to the requirements of the Title I program and the needs of the Title I staff.
Authority: 20 USC 241e(a)(1)

The orientation, indoctrination, and development of the personnel who have been selected to conduct the Title I program is probably the most critical phase of the Title I program. The concentration of the Title I program on children who have not been developing satisfactorily under the regular school program indicates the need for new approaches to the development of teaching and other personnel.

The methods of preparing personnel to undertake specific Title I activities and for their continued inservice development should be closely geared to those activities. Furthermore, the inservice training program should be of sufficient size and depth to have an impact on the participant and the Title I program. Case studies of other ongoing programs, "sensitivity" training, and other approaches specifically designed to help teachers do a better job of providing special services for and relating to children with special needs should be tried and evaluated. Institutions of higher education should be involved in conducting training programs for Title I personnel and in following up with the evaluation of those programs. The use of old ready-made courses not related to problems confronting the Title I staff should, of course, be avoided.

5.3 Specific provision has been made for professional staff members and education aides assigned to assist them to participate together in coordinated training programs.
Authority: 20 USC 241e(a)(11)

The 1967 amendments to Title I specifically require as a condition for the approval of projects involving the use of education aides the presentation of well-developed plans for training programs in which the aides and the professional staff members they will assist participate together. The program provided for such staff members and their aides should, as stated in item 5.2, Inservice Training, be closely allied to the tasks they will be performing. Each Title I application involving the use of education aides should set forth (a) definite proposals for the joint training of those aides and the professional staff members with whom the aides will work or (b) a detailed description of such a program in which most

of the aides and the professional staff members they will assist have already participated. Special attention should be given to the development of the most effective ways the professional staff members and their aides can work together and of ways in which a long term training program may assist both professional staff members and aides to take on increasing responsibilities. If appropriate, consideration should be given to providing the aides with training leading toward teacher certification. Such training may begin with Title I funds and continue as long as the aides are employed in Title I activities. After this, other appropriate funding should be sought.

5.4 The Title I program includes appropriate activities or services in which parents will be involved.

Authority: 20 USC 241e(a)(1)

The applicant should demonstrate that adequate provision has been made in the Title I program for the participation of and special services for the parents of children involved in the programs. The employment of parents in the Title I projects is but one way to implement this provision. The primary goal of such activities and services should be to build the capabilities of the parents to work with the school in a way which supports their children's well-being, growth, and development.

5.5 Title I activities or services will be offered at locations where the children can best be served.

Authority: 20 USC 241e(a)(1)

All Title I program activities must be designed for educationally deprived children who live in eligible attendance areas but should be offered at locations where those children can best be served. Any proposed Title I activities (including the construction of school facilities) which, because of location or for other reasons, would in effect prolong the racial, social, or linguistic isolation of the children to be served would be self-defeating and should not be approved. Applicants for Title I funds should design effective compensatory education programs which include, where appropriate, measures for fostering integration in the community.

In some cases, the locations where the children can best be served will be outside the project area. The application should indicate clearly the locations both inside and outside the project areas where Title I services will be offered and the number of children from inside and outside the project areas who will participate at each such location.

No child who lives in a project area and who would otherwise receive Title I services is to be denied such services because of his exercise of a right to enroll in another school. Children residing outside the project areas who can benefit from the services may participate on a space-available basis.

5.6 Expenditures for equipment will be limited to the minimum required to implement approved Title I activities or services.
Authority: 20 USC 241e(a)(1)

All requests for the approval of funds for the purchase of initial or replacement equipment must be fully justified. This means that the applicant must show that (a) equipment has been selected and designated for specific purposes in connection with proposed project activities, (b) the proposed equipment is essential to the effective implementation of the project, (c) such equipment is not available in the applicant's regular or Title I inventories for use in the project, and (d) the applicant has the trained staff to utilize the proposed new equipment effectively or that arrangements will be made to prepare staff for such use. The State educational agency will review existing Title I inventories and insure that equipment already purchased with Title I funds is being effectively used for Title I purposes. Equipment that is no longer appropriate for use in Title I projects should be sold or transferred to the applicant's regular inventory and the appropriate amounts refunded to the Federal Government.

5.7 Title I funds will be used for construction only when necessary to implement projects designed to meet the highest priority needs of educationally deprived children in the applicant's district.
Authority: 20 USC 241e(a)(1)

Whenever possible Title I activities and services should be organized and scheduled for operation in existing facilities. If existing facilities cannot be used, consideration should first be given to the rental of space in ready-made permanent or portable facilities. Rental or construction of school facilities (including portable units) not specifically related to a Title I project activity should not be allowed except in unusual situations where (a) such construction is necessary in order to bring children together at locations where they can be served effectively under Title I and (b) the local educational agency is unable to provide such facilities with its own funds. The construction of permanent new facilities should be regarded as a local responsibility except in extreme cases of financial need.

5.8 The Title I program includes provisions for the dissemination of information to teachers and administrators for their use in planning and conducting projects.

Authority: 20 USC 241e(a)(9)

In addition to the dissemination that takes place through inservice training programs for the Title I staff, relevant information concerning compensatory education from such sources as research and demonstration reports should be made available through appropriate forms of communication to Title I and other school personnel servicing participating children. Emphasis should be placed on the dissemination of information which will contribute to improved program planning and operation both in the applicant's district and in other districts. Conversely, applicants should be able to demonstrate that their Title I staff members in planning program activities have considered the information that has been made available to them. Applicants should develop information dissemination programs to include involvement of the community and parents of children served by the project. Dissemination procedures should include such things as annual reports, newsletters, news releases and other material for newspapers, magazines, radio, and television for the purpose of informing the public and other educators about program objectives and procedures and gain support of the project.

6. EVALUATION

6.1 The Title I program includes specific evaluation procedures that are appropriate for the services to be provided and consistent with approved program objectives. Adequate staff and other resources will be provided to implement the procedures.

Authority: 20 USC 241e(a)(6)

The Title I application must include a description of the methods and procedures to be used to evaluate each major activity. No application can be approved unless these procedures are described in sufficient detail to enable the State educational agency to appraise their potential effectiveness.

The application should also contain sufficient information for the State educational agency to determine the adequacy of the resources the local educational agency expects to use in carrying out the evaluation of its major program activities. Private school officials should be involved in the formulation of evaluation procedures for any activity in which private school children are expected to participate.

The adequacy of the applicant's plans and resources for evaluation must be assessed in terms of the objectives that have been approved for the program and the nature of the major activities.

7. TITLE I FUNDS SUPPLEMENTARY TO STATE AND LOCAL FUNDS

7.1 The Title I program and the regular school program have been planned and budgeted to assure that Federal funds will supplement and not supplant State or local funds and that State and local funds will be used to provide services in the project areas that are comparable to the services provided in non-project areas.

Authority: 20 USC 240e(a)(1)

It is expected that services provided within the district with State and local funds will be made available to all attendance areas and to all children without discrimination. The instructional and ancillary services provided with State and local funds for children in the project areas should be comparable to those provided for children in the non-project areas, particularly with respect to class size, special services, and the number and variety of personnel. Title I funds, therefore, are not to be used to supplant State and local funds which are already being expended in the project areas or which would be expended in those areas if the services in those areas were comparable to those for non-project areas. This means that services that are already available or will be made available for children in the non-project areas should be provided on an equal basis in the project areas with State and local funds rather than with Title I funds. It is intended also, in the application of this policy, that as services initiated in the project areas under Title I are extended to children residing in non-project areas the applicant will assume full support of those services under its regular school budget. This will release Title I funds to provide new activities for eligible children.

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APPENDIX F

U.S.O.E. DRAFT MANUAL ON COMPARABILITY
(Fall 1970)

FOREWORD

This manual on comparability has been designed combining materials collected by the Division of Compensatory Education from State and local educational agencies. Its purpose is to aid State educational agencies in providing technical assistance to local educational agencies in collecting, processing, and analyzing data required in determining comparability as defined by ESEA Title I.

The manual contains two elements: A) a model procedure and chart for processing and analyzing expenditure and personnel data, and B) case study information from a sample of local educational agencies that have begun or completed comparability evaluations. These procedures and case studies may be helpful to State agencies as they design individual State procedures applicable for use by local districts.

Further assistance in establishing these or individualized State-designed procedures may be obtained from the Division of Compensatory Education, U.S. Office of Education.

The Division of Compensatory Education wishes to express its appreciation to those State Departments of Education and local educational agencies which cooperated so fully with Mr. Daniel B. Davis, Education Program Specialist, in the development of these materials.

Public Law 91-230, passed by Congress on April 13, 1970 states that each local educational agency receiving Title I funds must submit data indicating that comparable State and local funds do, in fact, go to Title I and non-Title I schools or that the school district outline a plan showing how comparability will be achieved by June 30, 1972.

A memorandum sent to Chief State School Officers by Acting Commissioner T. H. Bell asks for this data by May 1, 1971.

Because many school districts have not, in the past, collected this type of information and have requested help in planning for comparability and in collecting and processing their information, Title I educational specialists have prepared this manual.

It is suggested that in determining comparability, a school district take the following steps:

- Allocate instructional expenditures on a school-by-school basis, as this is crucial for implementing comparability
- Consider revenues from state, local, and P.L. 81-874 sources only
- Do not include Title I personnel or any proportion of salaries paid from Title I funds.
- Compare only those schools of equivalent grade span e.g., each K-6 Title I school with the average for all K-6 non-Title I schools in the district
- Submit a separate analysis for each division of schools

The chart on page 7 is designed to help school districts organize their information on each Title I school and on the average of the non-Title I schools in a systematic manner.

The following instructions explain the procedures for implementing the comparability criteria of this chart.

Column 1

Calculate the number of pupils in Average Daily Membership for all Title I schools listed and for the average of all non-Title I schools of equivalent grade span. ADM is the average number of pupils on the school rolls (present and absent) during the school year.

Column 2

The average number of assigned full time equivalent (FTE) certified classroom teachers paid from state and local funds can be obtained from staff distribution records by school. This classification comprises all teaching services rendered to pupils in the public schools, including teachers of special classes, teachers of exceptional children, teachers of the homebound, and long-term substitute teachers. Day-to-day substitute teachers should not be included.

Column 3

The average number of assigned FTE other certified instructional staff should be available from staff personnel records by school. This classification includes principals, consultants or supervisors of instruction, school librarians, audio-visual personnel, guidance personnel, psychological personnel, and television instructional personnel. If a staff member is assigned to 2 or more schools, his position should be prorated in accordance with the proportion of time that he actually spends with each school.

Column 4

The average number of assigned FTE non-certified instructional staff can also be obtained from staff distribution records on a school-by-school basis. This category includes secretarial and clerical services for the principal's office, for consultants or supervisors, for teachers, school librarians, audio-visual personnel, guidance personnel, psychological personnel, and other such instructional staff. Also included are any assistants or aids to instructional staff other than secretarial and clerical personnel e.g., paraprofessionals.

Column 5

To compute the ratio of pupils to assigned FTE certified classroom teachers, divide column 1 by column 2.

Column 6

To compute the ratio of pupils to assigned FTE other certified instructional staff, divide column 1 by column 3.

Column 7

To compute the ratio of pupils to assigned FTE non-certified instructional staff, divide column 1 by column 4.

Column 8

To calculate the total amount expended for instructional salaries (including increments paid for step increases or other increases for length of service) at each school, compute the sum of the following expenditure accounts in Handbook II, Financial Accounting for Local and State School Systems: 211, 212, 213, 214a, 214b, 214c, 214d, 214e, 215a, 215b, 215c, 215d, 216. Prorate salaries of itinerant personnel counted in columns 2, 3, and 4.

NOTE: Indirect payroll expenses include all contributions by the school district toward fringe benefits for instructional personnel, e.g., medical and health benefits, life insurance, workmen's compensation, retirement funds, etc. These can be determined by summing the following accounts: 810a, 810b, 810c, and 820b.

Column 9

The amount included in expenses for instructional salaries paid solely for length of service can be determined from the districts appropriate salary schedule. Locate each staff member's total salary on the schedule (this is usually contingent upon his educational level and his years of experience). Move up the column for the particular level of formal training to Step 1, the base pay for that level of formal training with 0 years of experience. Subtract this amount from the total salary to arrive at the amount paid solely for length of service without regard to the quality of work.

Column 10

The total amount expended for instructional salaries less the amount paid solely for length of service can be found by subtracting column 9 from column 8.

Column 11

To determine the expense per pupil for instructional salaries, less amounts paid solely on the basis of longevity, divide column 10 by column 1.

Column 12

The expenses incurred for other instructional costs can be found by adding the following expenditure accounts from Handbook II:

220 Textbooks
230a School Library Books
230b Periodicals and Newspapers
230c Audiovisual Materials
230d Other School Library Expenses
240 Teaching Supplies
250a Miscellaneous Supplies for Instruction
250b Travel Expenses for Instruction
250c Miscellaneous Expenses for Instruction

The total of these is the amount expended for other instructional costs.

Column 13

To determine the expense per pupil for other instructional costs, divide column 12 by column 1.

CRITERIA FOR DEMONSTRATING COMPARABILITY

School District_____ Grade Span of Schools Listed_____

Title I Project Schools (List Individually)	1 Number of pupils in ADM	2 Average Number FTE Certified classroom teachers	3 Average Number FTE Other Certified Instructional Staff	4 Average Number FTE Non-Cert. Instructional Staff	5* Ratio of Pupils to FTE Certified Classroom Teachers (Col. 1 ÷ Col. 2)	6* Ratio of Punils to FTE other Certified Instructional Staff (Col. 1 ÷ Col. 3)	7* Ratio of Pupils to FTE Non-Certified Instructional Staff (Col. 1 ÷ Col. 4)	8 Amount expended for Instructional Salaries (Including longevity)	9 Amount expended solely for longevity	10 Amount expended for Instructional salaries less longevity (Col. 8 - Col. 9)	11* Per punil expense for Instructional salaries less longevity (Col. 10 ÷ Col. 1)	12 Amount expended for other instructional costs	13* Per pupil expense for other instructional costs (Col. 12 ÷ Col. 1)
Average for Non-Title I Project Schools													

*Criteria upon which the SEA shall base its determination of compliance with the comparability requirement.

APPENDIX G

No. 20,566

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

ANNA BARRERA, ET AL.,

Plaintiffs-Appellants

v.

HUBERT WHEELER, ET AL.,

Defendants-Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI, DIV. 2
JUDGE WILLIAM COLLINSON

BRIEF FOR THE UNITED STATES COMMISSIONER OF EDUCATION AS AMICUS CURIAE

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INDEX

	Page
Questions presented	1
Discussion	2
I. Whether Title I of the Elementary and Secondary Education Act of 1965 or the regulations promulgated thereunder provide any procedures for the filing or processing of a complaint by individual recipients of the benefits of the Act, or whether the Commissioner permits the filing and processing of a complaint by individual recipients?	2
A. Operation of Title I	2
B. Commissioner's enforcement responsibilities; role of private parties	7
II. Whether plaintiffs are required to exhaust State or Federal administrative remedies as a prerequisite to seeking judicial relief?	11
Certificate of Service	14

CITATIONS

Cases:

Rosado v. Wyman, 397 U.S. (1970)	2, 11
United States v. Frazer, 297 F. Supp. 319 (M.D. Ala., 1968)	8

Statutes and Regulations:

Elementary and Secondary Education Act of 1965, Title I:

Section 101, 20 U.S.C. 241a	3
Section 102, 20 U.S.C. 241b	3
Section 103(a)(2), 20 U.S.C. 241c(a)(2)	3
Section 141, 20 U.S.C. 241e	4
Section 141(a), 20 U.S.C. 241e(a)	4
Section 141(a)(1), 20 U.S.C. 241e(a)(1)	4
Section 141(a)(2), 20 U.S.C. 241e(a)(2)	5
Section 142(a)(1), 20 U.S.C. 241f(a)(1)	6
Section 143(a), 20 U.S.C. 241g(a)	4
Section 146, 20 U.S.C. 241j	7,8,9,10
Section 147, 20 U.S.C. 241k	7

Statutes and Regulations (continued)

	Page
General Education Provisions Act, 20 U.S.C. 1232a	10
45 C.F.R. 116.31(c)	6
45 C.F.R. 116.31(g) (1970)	8, 9, 10
45 C.F.R. 116.52	8
45 C.F.R. 116.52(a)	8
45 C.F.R. 116.52(b)	8

Miscellaneous:

Sen. Rept. No. 146, 89th Cong., 1st Sess. (1965)	4

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BRIEF FOR THE UNITED STATES COMMISSIONER OF EDUCATION AS AMICUS CURIAE

QUESTIONS PRESENTED

This Court has authorized and requested the U.S. Commissioner of Education to file an amicus curiae brief in this case directed to the following questions:

1. Whether plaintiffs (appellants) are required to exhaust state or federal administrative remedies as a prerequisite to seeking judicial relief;

2. Whether Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. §§ 241(a) et seq., as amended) or the regulations promulgated thereunder provide any procedures for the filing or processing of a complaint by individual recipients of the benefits of the Act, or whether the Commissioner permits the filing and processing of a complaint by individual recipients;

3. Whether plaintiffs (appellants) have exhausted their administrative remedies.

The second question is the most important from the standpoint of the Commissioner's competence to assist this Court. Since, as will appear from our discussion of the second question, there are no administrative remedies to exhaust, consideration of the third question becomes unnecessary. As for the first question, it relates to a matter of general law not within the special competence of the Commissioner. Accordingly, this brief will be confined to the second question except for a brief discussion of Rosado v. Wyman, 397 U.S. 397 (1970), which may have a bearing on the first question.

DISCUSSION

I.

WHETHER TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 OR THE REGULATIONS PROMULGATED THEREUNDER PROVIDE ANY PROCEDURES FOR THE FILING OR PROCESSING OF A COMPLAINT BY INDIVIDUAL RECIPIENTS OF THE BENEFITS OF THE ACT, OR WHETHER THE COMMISSIONER PERMITS THE FILING AND PROCESSING OF A COMPLAINT BY INDIVIDUAL RECIPIENTS?

A. Operation of Title I.

1. Title I of the Elementary and Secondary Education Act of 1965 authorizes the United States Commissioner of Education to make Federal

payments to State educational agencies to be used by them for making grants to local educational agencies (local public school boards) for providing special services to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low income families.[1] The approach of the law is thus not to provide Federal assistance for education generally but to focus upon the educational needs of a particular category of children, namely those who are educationally deprived. The maximum grant which a local educational agency is eligible to receive for a fiscal year is governed by a statutory formula.[2] Local educational agencies may obtain grants only upon project applications therefor to their State educational agencies which may approve or disapprove the local agency's project applications on the basis of criteria set forth in

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1 - Elementary and Secondary Education Act of 1965, §§ 101, 102, 20 U.S.C. 241a, 241b. [Citations are to the September 1970 supplement of Title 20 U.S.C.A. unless otherwise indicated.]

2 - This amount is determine by the Commissioner on the basis of the number of children in the school district of the local agency who are in one of the three following categories:

(1) Those in families having an annual income of less than a statutorily prescribed low-income factor;

(2) Those in families receiving an annual income in excess of the low income factor from payments under the program of aid to families with dependent children (AFDC);

(3) Those living in institutions for neglected or delinquent children or being supported in publicly-supported foster homes.

The total number of such children in the school district is then multiplied by 50 percent of the average per pupil expenditure in the State or if greater, in the United States. This amount is the local agency's maximum grant. (ESEA, § 103(a)(2), 20 U.S.C. 241c(a)(2).

Title I, but may not approve a grant in excess of the maximum amounts which a local agency is eligible to receive.[3] The local educational agency may seek approval for use of the funds for a wide variety of programs or projects.[4]

Before a State educational agency may approve the application of a local educational agency for a grant, it must make certain determinations required by the statute with respect to such matters as participation of non-public school children, control of funds, evaluation, submission of reports, dissemination, and special conditions relating to construction of facilities.[5] In particular, the SEA must determine that the programs or projects to be carried out by the local educational agency are "designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families" and that such programs or projects are "of sufficient size, scope, and quality to give reasonable promise of substantial progress towards meeting those needs. . . ."[6] Furthermore, the SEA must also determine:

> (2) That, to the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency has made

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3 - ESEA, §141(a), §143(a), 20 U.S.C. §241e(a), §241g(a).

4 - The wide variety of possible projects is set forth in the legislative history. (Sen. Rept. No. 146, 89th Cong., 1st Sess. (1965).)

5 - ESEA §141, 20 U.S.C. 241e.

6 - ESEA §141(a)(1), 20 U.S.C. 241e(a)(1).

> provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate.[7]

No grants of any Federal funds to any private schools are permitted under Title I; the services and arrangements referred to in section 141(a) (2) must be under the supervision of the local educational agency (i.e., the local public school system). The services and arrangements referred to in section 141(a)(2) which the local educational agency is required to provide may be conducted by it on public or private premises.

2. To summarize, at this point, Federal financial assistance under Title I of the Elementary and Secondary Education Act is made available through grants to local educational agencies made by State educational agencies with funds provided by the Commissioner of Education. The local public agencies develop programs or projects for the use of the grant funds for which they are eligible and submit applications to their State educational agencies which in turn approve or disapprove these project applications subject to the criteria set forth in the statute and regulations. Accordingly, in the administration of Title I, the Commissioner of Education deals with the State educational agencies rather than with the local agencies and their student populations.

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7 - ESEA §141(a)(2), 20 U.S.C. §241e(a)(2) (1969).

To participate in the Title I program, a State must submit to the Commissioner, through its State educational agency, a State application which is analogous to a State plan in grant-in-aid programs in that it provides the basic undertaking for the conduct of the Title I programs in the State. The State application provides certain assurances, including an assurance that, with exceptions not applicable here,

> "payments under this part will be used only for programs and projects which have been approved by the State educational agency pursuant to section 141(a) [the section which establishes criteria for approval of LEA applications, including determinations with respect to participation of non-public school children] and which meet the applicable requirements of that section . . . and that such [State] agency will in all other respects comply with the provisions of this part, including the enforcement of any obligations imposed upon a local educational agency under section 141(a)."[8]

Thus, in order to participate in the program, the State must undertake (1) to approve only those LEA applications which meet the requirements of Title I and (2) to enforce the obligations imposed upon local agencies under Title I (including the obligation imposed upon local agencies to make provision for including in their Title I program special educational services and arrangements . which children in private schools can participate).[9]

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8 - ESEA, §142(a)(1), 20 U.S.C. 241f(a)(1).

9 - See also 116.31(c) of the Regulations under Title I. (45 C.F.R. Pt. 116.)

B. Commissioner's Enforcement Responsibilities; Role of Private Parties

The Commissioner's authority and responsibility in the case of the failure of the Title I program in any State to comply substantially with Federal requirements is set forth in §146 of the Act. This section reads as follows (20 U.S.C. 241j):

> Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 141(c) or 142(b) the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

Section 147[10] of the Act provides for judicial review of the final action by the Commissioner under §146.

Thus the substantial failure of a State educational agency to require local educational agencies (i.e., local public school systems) to meet the obligations under Title I, or the failure of a State agency otherwise to meet its own obligations under that title, is subject to an enforcement action by the Commissioner of Education through the withholding of funds after notice

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10 - 20 U.S.C. 241k.

and opportunity for hearing in an administrative proceeding against the State educational agency subject to judicial review upon petition by the State.[11]

Ancillary to his responsibility under §146 of the Act, the Commissioner has promulgated §§ 116.52 and 116.31(g) of the regulations. Section 116.52(a) repeats the provisions of §146 of the Act and §116.52(b) provides as follows:

> Prior to initiating a hearing under this section, the Commissioner will attempt to resolve any apparent differences between him and the State educational agency regarding the interpretation or application of the provisions of Title I of the Act and the regulations in this part, including any apparent differences with respect to the disposition of matters reported by the State educational agency pursuant to § 116.31(g). Nothing herein shall be deemed to prevent any State educational agency from seeking the advice of the Commissioner prior to disposing of such matters.[12]

Section 116.31(g) provides:

> Each application by a State educational agency shall contain an assurance that it will make such other reports to the Commissioner as he may reasonably require from time to time to enable him to perform his duties under Title I of the Act. Such reports shall include a disclosure of any allegations of substance which may be made by local educational agencies or private individuals or organizations of actions by State or local educational agencies contrary to the provisions of Title I of the Act or the regulations in this part, a summary of the result of any investigations made or hearings held

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11 - In addition, specific enforcement of assurances through an action brought by the Attorney General may be available under the doctrine of United States v. Frazer, 297 F. Supp. 319 (M.D. Ala., 1968).

12 - 45 C.F.R. 116.52(b) (1970).

> with respect to those allegations, and a statement of the disposition by the State educational agency of those allegations. It is recognized that the responsibility with respect to the resolution of such matters rests, in the first instance in the State educational agency.[13]

Title I does not require a complaint by a child or children served under the Act as a condition to the commencement of compliance proceedings under section 146 of the Act. The purpose of §116.31(g) of the Regulations is to bring to the Commissioner's attention information indicative of probable noncompliance with assurances so that he may determine whether to institute administrative proceedings against the State pursuant to §146 of the Act for the purpose of determining whether the sanction authorized by §146--withholding of funds from the State--should be imposed. There is, however, no procedure for the adjudication of such complaints or application of any particular remedy designed to satisfy any particular complainants. Section 146 of the Act does not require, in the case of a finding that the State has failed to comply substantially with a Title I assurance, that there be any monetary or other relief granted any particular private parties who may have been injured by such noncompliance.[14]

Where private complaints are communicated directly to the Commissioner, he will receive them and will, of course, consider whether the

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13 - 45 C.F.R. 116.31(g) (1970).

14 - Naturally, the report of a private complaint under §116.31(g), or from any other source for that matter, may lead to enforcement proceedings and withholding of Federal funds under §146 of the Act. Action by a State to avoid this sanction may result, incidentally, in resolving the problem which led to the complaint. However, it should be noted that in this situation the complaint serves as a source of information and not as a triggering device for the initiation of administrative action.

information submitted warrants administrative action under section 146. The regulations under Title I contain no procedures for receiving and processing such complaints. Since the information is received directly by the Commissioner, there is no need for a regulation analogous to §116.31(g), the purpose of which is to insure that complaints made to the State will be communicated to the Commissioner. Complaints submitted in this manner may, as indicated above, ultimately result in administrative action against the State but again not as the result of a procedure for the adjudication of private complaints but as the result the Commissioner's carrying out his enforcement responsibilities on the basis of information submitted from a nongovernmental source.[15]

II.

WHETHER PLAINTIFFS ARE REQUIRED TO EXHAUST STATE OR FEDERAL ADMINISTRATIVE REMEDIES AS A PREREQUISITE TO SEEKING JUDICIAL RELIEF?

The Supreme Court of the United States has considered the exhaustion of administrative remedies doctrine in the context of a program of Federal assistance which is distributed through the aegis of State agencies pursuant to State plans (which are analogous to the State applications for the participation of the State in Title I) approved at the Federal level and where compliance with Federal requirements is enforced by action of the Federal

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15 - While, conceivably, the Commissioner might establish a formal procedure for the receipt and adjudication of private complaints, the governing statute does not require him to do so and the nature of Title I as essentially a State administered program might militate against the establishment of such procedures. See §422 of the General Education Provisions Act, 20 U.S.C. 1232a.

administrator against the State by withholding of funds. Rosado v. Wyman, 397 U.S. 397 (1970). There welfare recipients under the program of aid to facilities with dependent children (AFDC), 42 U.S.C. §602(a)(23) (1964 ed. Supp. IV), brought an action in a Federal district court to enjoin New York welfare authorities from implementing a New York statute affecting the level of their payments. The right of such recipients to maintain the action was upheld against a challenge that they had failed to exhaust their administrative remedies by seeking redress from the Secretary of Health, Education, and Welfare. In dealing with this issue, the Court characterized the AFDC program, in so far as it was relevant to the availability of remedies for welfare recipients, as follows:

> States desiring to obtain federal funds available for AFDC programs are required to submit a plan to the Secretary of HEW for his approval. 42 U.S.C. §601 (1964 ed., Supp. IV). Once initially approved, federal funds are provided to the State until a change in its plan is formally disapproved. 42 U.S.C. §604(a) (1964 ed., Supp. IV). The Secretary must afford the State notice of an alleged noncompliance with federal requirements and an opportunity for a hearing. Ibid. If, after notice and hearing the Secretary finds that the State does not comply with the federal requirements, he is directed to make a total or partial cutoff of federal funds to the State. Ibid. 42 U.S.C. § 1316 (1964 ed., Supp. IV) describes the administrative procedures that the Secretary must afford a State before cutting off funds, and also provides for review in the courts of appeals of the Secretary's action at the behest of the State. Whether HEW could provide a mechanism by which welfare recipients could theoretically get relief is immaterial. It has not done so, which means there is no basis for the refusal of federal courts to adjudicate the merits of these claims. (397 U.S. at 408, fn. 8.)

The Court then rejected the exhaustion of administrative remedies argument with the following observation:

> Petitioners answer, we think correctly, that neither the principle of "exhaustion of remedies" nor the doctrine of "primary jurisdiction" has any application to the situation before us. Petitioners do not seek a review of an administrative ruling since HEW has no procedures whereby welfare recipients may trigger and participate in the Department's review of state welfare programs.

While there are some differences in the nature and content of the Title I program and the AFDC program, with respect to both programs the basic statutory mechanism for enforcement of Federal requirements is through administrative action against the State to withhold funds on account of the State's failure to comply with such requirements. As in the case of AFDC, under Title I, there are no formal procedures whereby program beneficiaries (children served by Title I) "may trigger and participate in the Department's review" of State programs.

Respectfully submitted,

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MARCH 1971

[Draft Title I
Comparability Complaint]

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF _____

[Low income parents and their children residing in attendance areas of Title I schools found to be non-comparable]

Plaintiffs,

vs.

ELIOT RICHARDSON, as Secretary of the United States Department of Health, Education and Welfare; SIDNEY MARLAND, as U.S. Commissioner of Education; RICHARD FAIRLEY, as Director of the Division of Compensatory Education, United States Office of Education; _____, as Director of the State Department of Education for _____; _____, Title I Coordinator for the state of _____; Board of Education for the _____ School District; _____, as President and member, and _____, _____, _____, _____, _____, _____, _____, _____, _____, as members of the Board of Education of the _____ School District; _____, as Superintendent of Schools for the _____ School District; _____, as Assistant Superintendent in charge of Federal Programs; and _____, as Title I Director for the _____ School District.

1. This is an action seeking redress for the failure of defendants, education officials of the _____ School District, the State of _____, and the Federal Government, to comply with Title I of the Elementary and Secondary Education Act, 20 U.S.C. §241a, et. seq. (hereinafter referred to as "Title I") which requires (A) that state and local funds must provide students in schools receiving Title I funds with services comparable to those provided students in non-Title I schools in the _____ School District and (B) that federal funds supplement and not supplant state and local educational funds that would, in the absence of federal funds, be available for the education of such children. These requirements are intended to insure that Title I funds be used to provide compensatory education to educationally deprived children, and to prevent local school districts from using federal funds merely to mitigate the effects of its discrimination against such children in the allocation of educational services provided from state and local funds. Plaintiffs allege that the _____ School District has practiced such discrimination in violation of Title I, and that the State and federal defendants have not acted to prevent this discrimination against plaintiffs as required by law.

I. JURISDICTION

2. This action arises under the Constitution and laws of the United States and as authorized by 42 U.S.C. §1983 and 28 U.S.C. §§ 201 and 2202 for declaratory and injunctive relief to require defendants, who have acted under color of federal or state statute, ordinance, regulation, custom or usage, to provide plaintiffs and their children with rights, privileges and immunities secured to them by Title I and regulations, program guides, contracts and assurances, made or issued pursuant to Title I.

3. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§1331, 1343(3) and (4), 1361 and 1391. The amount in controversy exceeds ten thousand dollars ($10,000.00) exclusive of interests and costs.

II. PARTIES

A. PLAINTIFFS

4. Adult plaintiff _____ sues on her own behalf and, as next friend, on behalf of her minor children, _____ and _____. [Repeat for each plaintiff, or] Adult plaintiff _____ sues on her own behalf and, as next friend, on behalf of her minor great nephew, _____, as his legal guardian.

The adult and minor plaintiffs are low-income residents of _____, _____, and citizens of the United States and the State of _____. The minor plaintiffs are all educationally deprived, that is, children who have a need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age. The children plaintiffs are among the

intended beneficiaries, or "target" populations, for federal funds under Title I, in that they are from [City] families living in school attendance areas with a high concentration of children from low-income families and attend schools which receive Title I funds.

5. Each plaintiff brings this action on his own behalf and, pursuant to Rule 23(b) of the Federal Rules of Civil Procedure, on behalf of all other educationally deprived children and their parents residing in eligible attendance areas, who are similarly injured by the violations of law alleged herein. The class is so numerous that joinder of all members is impracticable; there are questions of law and fact common to the class; the claims of the named plaintiffs are typical of the claims of the class; and the named plaintiffs will fairly and adequately protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of adjudications with respect to individual members of the class which, as a practical matter, would be dispositive of the interests of the other members not parties to the adjudications or would substantially impair or impede their ability to protect their interests. Defendants have acted and failed to act on grounds generally applicable to the class, thereby making injunctive and declaratory relief appropriate with respect to the class as a whole.

B. FEDERAL DEFENDANTS

6. Defendant Eliot Richardson as Secretary of the United States Department of Health, Education and Welfare (hereinafter referred to as "HEW"), has overall responsibility for the activities of HEW and its officers and agents and under 20 U.S.C. § 2, has overall responsibility for the supervision of the United States Office of Education (hereinafter referred to as "USOE"), its officers and agents.

7. Defendant Sidney Marland, as Commissioner of USOE, has general responsibility under 20 U.S.C. § 2 for the activities of USOE and his subordinates in that office. Under 20 U.S.C. §241a, et seq., he has general responsibility for allocating Title I funds to state educational agencies and for enforcing the applicable laws, regulations, program guides, contracts, and assurances. Under 20 U.S.C. §§6 and 242, he has responsibility for promulgating and enforcing regulations and program guides which have the force of law, governing the administration of Title I funds; pursuant to such responsibilities, defendant and his predecessors have promulgated regulations and program guides.

8. Defendant Richard Fairley, as Director of the Division of Compensatory Education, USOE, has direct responsibility for allocating Title I funds to state educational agencies, and for enforcing the applicable laws, regulations, program guides, contracts and assurances; and pursuant to such responsibilities he or his predecessors have promulgated and implemented regulations, program guides, contracts and assurances.

C. STATE DEFENDANTS

9. Defendant _____ as Director of the State Department of Education for the State of _____, and under 20 U.S.C. §2419, and _____[State statute]_____ _____ has general responsibility for allocating Title I funds to the _____ School District in the State of _____, for approving Title I project applications from the _____ School District, and for enforcing the applicable laws, regulations, guides, contracts and assurances.

10. Defendant _____, as Title I Coordinator for the State Department of Education (hereinafter referred to as the "state agency") for the State of _____, has direct responsibility for allocating Title I funds to the _____ School District, for approving Title I project applications from the _____ School District, and for enforcing the applicable laws, program guides, regulations, contracts and assurances.

D. LOCAL DEFENDANTS

11. Defendant Board of Education for the _____ School District and _____, as President and member, and _____ _____, _____, _____, _____, _____, _____, _____, _____, and _____, as members of this Board have overall responsibility for all public education in the City of _____ pursuant to _____, including the

planning and administration of Title I programs in the _____ School District in accordance with the applicable laws, regulations, program guides, contracts and assurances.

12. Defendant _____ as Superintendent and chief administrative officer for the _____ School District and pursuant to _____ has general responsibility for the planning and administration of Title I programs, in the _____ School District in accordance with the applicable laws, regulations, program guides, contracts and assurances.

13. Defendant _____ as Assistant Superintendent for the _____ School District in charge of Federal Programs, including Title I, has direct responsibility in planning and administering the Title I programs in the _____ School District in accordance with the applicable laws, regulations, program guides, contracts and assurances.

14. Defendant _____ as Title I director for the _____ School District, in conjunction with defendant _____(name of Defendant in paragraph 13) is directly responsible for the planning and administration of Title I programs in the _____ School District in accordance with the applicable laws, regulations, program guides, contracts and assurances.

III. FACTS

16. Title I declares a Congressional policy of providing funds to school districts with high concentrations of children from low income families in order to expand and improve programs that will benefit educationally deprived children. 20 U.S.C. §241 (a). The Act authorizes the United States Commissioner of

Education to make payments to state educational agencies according to a formula based upon the number of children from low income families living in the school districts in the State. 20 U.S.C. §§241(b), and (c). In turn, the state educational agency funds and approves Title I projects proposed by local educational agencies.

17. Under Title I, the following amounts have been allocated to the _____ School District for the current and three previous fiscal years:

Fiscal year	
1972-1973	$_____
1971-1972	$_____
1970-1971	$_____
1969-1970	$_____

17. To be eligible for a Title I funded project, a school attendance area must have a high concentration of children from low-income families. 20 U.S.C. §241e(a)(1). (Schools serving eligible attendance areas for which Title I projects have been approved and funded are hereinafter referred to as "Title I schools.")

18. In order to assure that Title I funds exclusively benefit educationally deprived children, Title I was amended in 1970 to include the following safeguards (20 U.S.C. §241e(a)(3), as amended, Pub. L. 91-230):

> (a) Title I funds must be used only to <u>supplement</u> and not to <u>supplant</u> state and local funds that would, in the absence of federal funds, be made available for the education of pupils participating in Title I projects.

(b) Under Title I, the services, taken as a whole, provided out of state and local funds for Title I schools must be comparable to services provided out of state and local funds for the non-Title I schools in the District. (This requirement is hereinafter referred to as the "comparability requirement".)

(c) A school district receiving Title I funds is required to report annually with respect to its compliance with the comparability requirement. The first report had to be submitted on or before July 1, 1971.

19. School districts receiving Title I funds were given two school years to comply with the 1970 comparability requirement, in that a finding of non-compliance with the requirement was not to affect the payment of Title I funds to school districts until the fiscal year beginning July 1, 1972. 20 U.S.C. §241e(a)(3) as amended, Pub. L. 91-230.

20. In addition to the statutory requirements set out above, Title I provides that all districts receiving Title I funds must comply with criteria established by the United States Commissioner of Education implementing the statutory requirements. 20 U.S.C. §241 e(a), as amended, Pub. L. 91-230. Pursuant to this statutory authority, a set of criteria in the form of

regulations and program guides have been issued and promulgated by the Commissioner of Education and USOE.

21. Under USOE regulations and program guides, a school district, to meet the comparability requirement, must demonstrate that each Title I school is comparable to the average of all non-Title I schools with respect to:

> "(1) The average number of pupils per assigned certified classroom teacher;
>
> (2) The average number of pupils per assigned certified instructional staff member (other than teachers);
>
> (3) The average number of pupils per assigned noncertified instructional staff member;
>
> (4) The amounts expended per pupil for instructional salaries (other than longevity pay); and,
>
> (5) The amounts expended per pupil for other instructional costs, such as the costs of text-books, library resources, andoother instructional materials."
>
> (45 CFR §116.26(c); USOE Regulations referred to herein are attached as Appendix 1)

A Title I school is deemed comparable if its ratios in (1), (2), and (3) above do not exceed 105% of the corresponding ratios for non-Title I schools; and if the Title I school's ratios in (4) and (5) above are at least 95% of the corresponding ratios for non-Title I schools. 45 C.F.R. §116.26 (c).

IV. DEFENDANTS' VIOLATIONS OF THE COMPARABILITY REQUIREMENT

A. Violations Related to the District's 1971 Comparability Report

22. The _____ School District was required

to submit on or before July 1, 1971, a report to the state agency with respect to the District's compliance with the comparability requirement. (This report is referred to hereinafter as the "1971 comparability report" and is attached hereto as Exhibit A and made a part hereof.)

(a) The _____ School District in its 1971 comparability report, failed to submit data required by USOE program guides and regulations with respect to [here list the missing data, e.g. the amount expended for instructional salaries for each Title I school and for non-Title I schools on a combined basis]. USOE Commissioner's Memorandum to Chief State School Officers, September 18, 1970. 45 C.F.R. §116.26(b), (c) and (d).

(b) The District's 1971 comparability report shows that the services provided to ["many" or give number] of the District's Title I schools with state and local funds are not comparable to the services provided non-Title I schools. For example, [give several specific examples of lack of comparability]. Additional examples of this lack of comparability are shown on Exhibit B, attached hereto and made a part hereof.

(c) [If data from sources other than the District's 1971 comparability report show that the data in the report understates the extent of non-comparability, add this paragraph] The District in its 1971

comparability report has understated through the use of [incomplete] and [erroneous] data the actual extent and magnitude of the non-comparability of the District's Title I schools. [Give an example or two of such errors and incompleteness and their effects.] A comparison of the data in the District's 1971 comparability report to more complete and accurate data is attached hereto as Exhibit C and made a part hereof.

23. Because the District's 1971 comparability report showed a lack of comparability, the District was legally required to indicate in its Title I application for fiscal year 1971-72 how comparability will be achieved by the beginning of fiscal year 1972-73. 45 C.F.R. §116.26(d). [In violation of this requirement, the District failed to submit in said application any indication of how comparability would be achieved by the beginning of fiscal year 1972-73.] or [Specify in what way the indications are inadequate] or [If indications are adequate but were not followed, summarize them here to set up an allegation that these were not followed].

24. Contrary to law, state defendants approved the District's 1971-72 Title I application without requiring the District to submit (A) the comparability data missing from the 1971 comparability report as alleged in paragraph 22(a), and (B) an adequate report with respect to how comparability will be achieved by the beginning of fiscal year 1972-73. USOE

Commissioner's Memorandum to Chief State School Officers, September 18, 1970. 45 C.F.R. §116.26(d).

25. The Federal defendants are in possession of the District's 1971 comparability report and otherwise knew or should have known (A) that the state agency and the _____ School District have failed to comply with the comparability requirement of Title I and USOE regulations and program guides issued pursuant thereto, and (B) that such failures of compliance contradict the assurances made to USOE by the State agency, that the Title I projects approved by the state agency would meet all requirements of 20 U.S.C. §241e(a), including the comparability requirement. 20 U.S.C. §241f.

B. Violations Related to the District's 1972 Comparability Report

26. On or before July 1, 1972, the _____ School District was required to submit its second report to the state agency with respect to the District's compliance with the comparability requirement (this report is referred to hereinafter as the "1972 comparability report" and is attached hereto as Exhibit D and made a part hereof). This report must include the same types of data as the 1971 comparability report. In addition, the District must show on the basis of the 1972 comparability report that it has achieved comparability or submit information showing that it will achieve comparability by July 1, 1972. 45 C.F.R. §116.26(d).

(a) The District, in its 1972 comparability report, failed to submit data required by USOE program guides and regulations with respect to [here list the missing data as in paragraph 22(a)].

(b) The District's 1972 comparability report shows that the services the District provides to["many" or give number] of its Title I schools with state and local funds are not comparable to the services provided non-Title I schools. For example, [give several specific examples of lack of comparability]. Additional examples of this lack of comparability are shown on Exhibit E, attached hereto and made a part hereof.

(c) [If data from sources other than the District's 1972 comparability report show that the data in the report understates the extent of non-comparability, add this paragraph] The District in its 1972 comparability report has understated through the use of [incomplete] and [erroneous] data the actual extent and magnitude of the non-comparability of the District's Title I schools. [Give an example or two of such errors and incompleteness and their effects.] A comparison of the data in the District's 1972 comparability report to more complete and accurate data is attached hereto as Exhibit F and made a part hereof.

27. Because the District's 1972 comparability report showed a lack of comparability, the District was required to submit information with respect to projected budgets, staff assignments, and other pertinent matters showing that comparability will be achieved by July 1, 1972. 45 C.F.R. §116.26 (d) [The District has failed to submit any of this required information] or [The information the District submitted, purporting to comply with this requirement, is inadequate in the following respects:]

28. State defendants were prohibited by Title I and USOE regulations thereunder from approving the District's Title I application for fiscal year 1972-73 so long as the District failed to meet the comparability standards and submit the comparability data as alleged in paragraphs 28 through 32 herein. Contrary to law, state defendants approved the District's 1972-73 Title I application without finding that the District had met these comparability requirements.

29. The Federal defendants are in possession of the District's 1972 comparability report and otherwise knew or should have known (A) that the state agency and the _____ School District have failed to comply with the comparability requirement of Title I and USOE regulations and program guides issued pursuant thereto, and (B) that such failures of compliance contradict the assurances made to USOE by the State agency, that the Title I projects approved by the state agency would meet all requirements of 20 U.S.C. §241e(a), including the comparability requirement. 20 U.S.C. §241f.

V. DEFENDANTS' VIOLATIONS OF THE PROHIBITION AGAINST SUPPLANTING

30. Title I funds must be used only to supplement and not to supplant state and local funds that would, in the absence of federal funds, be made available for the education of pupils participating in Title I projects. 20 U.S.C. §241e(a)(3).

31. Under USOE regulations and program guides the _____ School District was required to give assurances that the use of Title I funds (A) "will not result in a decrease in the use for educationally deprived children residing in that project area of State or local funds which, in the absence of funds under title I of the Act, would be made available for that project area and that neither the project area nor the educationally deprived children residing therein will otherwise be penalized in the application of State and local funds because of such a use of funds under title I of the Act." 45 C.F.R. §116.17(h).

32. In order to ensure that Title I funds are used for the special educational needs of educationally deprived children, the District is forbidden by the supplanting provision from using these federal funds "to provide instructional or auxiliary services in project area [title I] schools that are ordinarily provided with State and local funds to children in non-project area [non-Title I] schools." 45 C.F.R. §116.17(h) and Program Guide No. 44, Guideline 7.1, March 18, 1968.

33. The _____ School District, contrary to the prohibition against supplanting, has used and continues to use Title I funds to provide educational services in Title I schools that are provided with state and local funds to children in non-Title I schools, as set forth below:

(a) [describe one such service and such other detail as is appropriate]

(b) [describe another such service] etc.

34. As a direct consequence of defendants' conduct, as alleged herein, the _____ School District has been permitted to obtain Title I funds, and at the same time spend more per pupil from state and local funds in non-Title I schools and provide such schools with superior educational services, than the District provides out of such funds to Title I schools.

35. The failure of defendants to conform to the requirements of Title I and USOE regulations and program guides, as alleged herein, has deprived and continues to deprive the children plaintiffs [or plaintiffs children] and the class of children which they represent of special educational assistance under Title I to which

they are statutorily entitled. Unless required to do so by judgment and order of this Court, the defendant will continue to deprive these children and their class of such educational assistance thereby causing injury and damage for which there is no adequate remedy at law.

WHEREFORE, plaintiffs respectfully pray that this Court:

A. declare that the _____ School District has been and presently is in violation of the comparability requirement of Title I, and applicable regulations, program guides, contracts and assurances thereto.

[redacted]

C. grant plaintiffs a preliminary and permanent injunction

1. enjoining state defendnats from approving either pending or future applications for Title I funds submitted by _____School District
2. enjoining federal defendants from approving either pending or future applications for Title I funds submitted by the state defendants and
3. enjoining local defendants from expending Title I funds

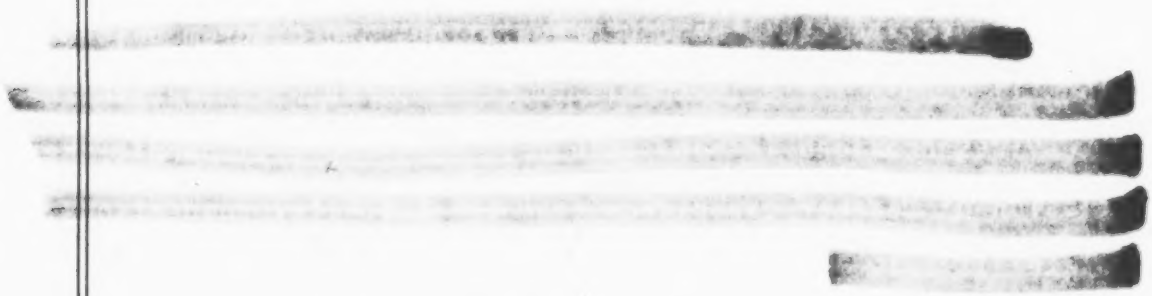
if the _____ School District is not in compliance with the comparability requirement of Title I, and applicable regulations, program guides, contracts and assurances thereto

D. retain jurisdiction in this action until such time as defendants comply with the comparability requirement of Title I and applicable regulations, program guides, contracts and assurances thereto.

E. award plaintiffs their costs; and

F. grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



TITLE I COMPARABILITY

LEGAL ISSUES

The memorandum of law from Babbidge v. Richardson, which is included here, deals with many of the preliminary legal issues that are likely to arise in Title I litigation. Note, however, that Babbidge was not primarily a challenge to lack of comparability.

The Babbidge memorandum has been supplemented with later cases and additional points that may arise. Reference to the applicable portion of the supplement is made following each subject heading of the Babbidge memorandum.

Substantial portions of the supplement are taken from the materials on Welfare Law, Appendix I, published by the Center on Social Welfare Policy and Law.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF RHODE ISLAND

ROBERTA BABBIDGE, et al,)

Plaintiffs,)

vs.) C. A. No. 4410

ELLIOT L. RICHARDSON et al,)

Defendants.)

PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTIONS FOR DISMISSAL AND SUMMARY JUDGMENT

Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 241 a et. seq. as amended April, 1970 (hereafter "Title I") signified a revolutionary change in the role of the federal government in American education. For the first time, the federal government expressly undertook responsibility for meeting the special education needs of poor and educationally deprived children. 20 U.S.C. § 241a. As defined by the regulations promulgated under Title I educationally deprived children means:

> "those children who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age. The term includes children who are handicapped or whose needs for such special educational assistance result from poverty, neglect, delinquency, or cultural or linguistic isolation from the community at large. 45 C.F.R. § 118. 1(i).

Title I provides that the U.S. Commissioner of Education will make lump sum payments to state educational agencies who, in turn, approve and fund projects proposed by local school districts for the educationally disadvantaged children. 20 U.S.C.§§241b and 241e. Responsibility for the administration of Title I funds is divided among the U. S. Office of Education and state and local educational agencies, see, e. g. U. S. S.§§ 241b,

241e, 241f, and 241g. In their project application for Title I funds, the local educational agencies must set forth their plans in detail, including a budget, identification of areas having high concentrations of children from low income families (target areas) and plans for evaluation of the project. See, e.g. 20 U.S.C. 241e. Money is available for a broad range of projects, but under the law, any project must be compensatory in character. This means the project must help eradicate the educational deficiencies of eligible children. See, e.g. Program Guide #44 (Appendix A herein); 20 U.S.C. 241e(a)(1). Applications are not made to the Office of Education, but to the state department of education, which has the duty of ensuring that the projects, as planned and as implemented, conform to all applicable regulations, see, e.g. 45 C.F.R. 116.31. This state responsibility includes establishment of standards and procedures for accounting, provision for annual audits of state and local expenditures, investigation of complaints, and periodic evaluation of the effectiveness of local projects. [See, e.g. 45 C.F.R., Sec. 116.48]. The Office of Education, aside from having primary responsibility under the Act for promulgating regulations and guidelines, also must satisfy itself through periodic audits of state and local expenditures, evaluations or whatever else is necessary, that the law and regulations are being followed. See. e.g. 20 U.S.C. § 241j. Where violations are discovered, the Commissioner of Education may withhold funds, reject state applications or seek the return of the illegally used monies. See e.g. 20 U.S.C. §§ 241e, 241f, and 241j.

While the state educational agencies have the authority of approving or disapproving local Title I project applications, the states must make their determinations on the basis of criteria established by the Act itself

and such "basic criteria as the Commissioner may establish",[1] 20 U.S.C. 241e. The Commissioner has promulgated his criteria in the form of regulations and guidelines. e.g. 45 C.F.R. 116, Title I Guidelines 1-60. Those criteria pertinent to the instant suit include:

> (a) "the maximum" practical involvement of parents of educationally deprived children in the area to be served in the planning, development, operation, and appraisal of [Title I] projects 45 C.F.F. 116.18(f).
>
> (b) that the terms and conditions of Title I projects must be made available by local and state educational agencies freely and publicly to any citizen upon request 20 U.S.C. 241e (a)(8); 45 C.F.R. 116.34(d); Program Guide # 54.
>
> (c) projects must meet the needs of educationally deprived children living in school attendance areas (or enrolled in schools) with high concentrations of children from low income families; those areas (or schools) where the concentration of such children is as high or higher than the average concentration for the district as a whole. Program Guide # 44, 1.1; 45 C.F.R. 116.17(c) and (d); 20 U.S.C. 241e (a)(1).
>
> (d) Title I funds must be additive and purchase educational services not generally available through state and local funds to the general school population. 20 U.S.C. 241e(a)(3); 45 C.F.R. 116.17(h); Program Guide # 44, 7.1.
>
> (e) Title I funds may only be expended for eligible educationally deprived children. 45 C.F.R. 116.17 (g); Program Guide # 44, 4.2.
>
> (f) Title I services must be "concentrated on a limited number of children" Program Guide # 44, 4.7; 20 U.S.C. 241c(a)(1); 45 C.F.R. 116.18(e).

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1 Unfortunately, at least one study has concluded that millions of dollars of Title I funds have been misused and the U.S. Office of Education has been reluctant to seek compliance. See Martin and McClure. Title I of ESEA: Is it Helping Poor Children? (Revised 2nd Edition, 1969).

(g) Local educational agencies must make provision for evaluating the program's effectiveness in meet- the special educational needs of children. Program Guide # 44, § 6.1; 20 U.S.C. § 241e(a)(6); 45 C.F.R. § 116.22

(h) State educational agencies must conduct periodic audits and evaluations of the Title I programs to insure conformance with the law. 45 C.F.R. §§ 110.31(f), 116.31(g) and 116.48;

(i) U.S.O.E. must conduct audits, evaluations, and do whatever else is necessary to insure the proper expenditure of Title I funds in each state. 20 U.S.C. § 241; 45 C.F.R. §§ 116.48(b) and 116.52. Title Report, supra.

The present suit is brought by parents of educationally disadvantaged children on behalf of themselves and their children, and on behalf of the parents of all other educationally deprived children of Providence, Rhode Island and their children. The defendants are federal, state and local officials charged with administering the Title I funds in Providence, Rhode Island. The basic complaints are: (1) inadequate parental involvement; (2) refusal to permit inspection of relevant Title I information; (3) general misuse of Title I funds, particularly use of Title I funds for the benefit of ineligible children and use of Title I funds to purchase for poor children what state and local funds purchase for others; and (4) the failure of state and federal Title I officials to effectively evaluate and audit the Title I program in Providence. The suit questions the spending of approximately nine million ($9,000,000.00) dollars in Title I funds since 1965, both as a matter of conformity to federal statutes, regulations and guidelines which have the force of law.

This case is presently before the Court on various motions for dismissal or summary judgment filed by the respective defendants. The defendants rely in part upon the affidavit of Terrell Bell, Acting Commissioner of Education. Plaintiffs have submitted the affidavit of Mrs. Patricia Overberg. The basic issues presented by these motions concern: (a) standing; and (b) jurisdiction.

The basic grounds presented by defendants' motions were considered and rejected by the court in Colpitts et al v. Richardson et al, C.A. No. 1838 (DC Me. 10/20/70) (See copy of bench decision Appendix B. herein) In Colpitts Judge Gignoux determined that parents of educationally disadvantaged children have standing to sue federal, state, and local school officials to enforce Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 241a, et seq., and that federal courts have jurisdiction over such an action. The allegations of the Maine complaint are substantially the same as those before the court and were found to state a cause of action against all defendants. Since Colpitts represents the only precedent, plaintiffs will not rely upon it solely but will treat individually and generally all of the grounds raised by defendants.

I. PLAINTIFFS HAVE THE REQUISITE STANDING TO CHALLENGE THE MISUSE OF TITLE I FUNDS *

In Associations of Data Processing Service Organizations, Inc. v. Camp, 397 U.S. 150 (1970) and Barlow v. Collins, 397 U.S. 159 (1970), the Supreme Court recently articulated a three-part test for determining standing:

(1) Is there an allegation of "injury in fact", economic or otherwise?

(2) Is the interest sought to be protected arguably within the zone of interests to be protected or regulated by the statute in question?

(3) Is judicial review precluded?

Applying the above tests to the instant case make it clear that plaintiffs have the requisite standing. First, the "injury in fact" test has been met. The complaint alleges that plaintiffs have been deprived of their rights and privileges under Title I and that as a result plaintiffs' children have been denied educational benefits.

Second, there can be no doubt that the plaintiffs are in the zone of interests sought to be protected by Title I. Plaintiffs are low income par-

* See supplement (p.1) on Standing and Exhaustion of Remedies

ents who sue on behalf of themselves, their educationally deprived children and all other educationally deprived children and their parents. Many of the plaintiffs are parents of children already participating in Title I programs. The language of the statute itself makes it clear that the plaintiffs are in the category of those Congress intended to benefit:

> "In recognition of the special educational needs of children from low income families and the impact that concentrations of low income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance . . .to local educational agencies serving areas with concentrations of children from low income families to expand and improve their educational programs by various means (including pre-school programs) which contribute particularly to meeting the special educational needs of educationally deprived children." 20 U.S.C. §241a. (Emphasis added).

In Association, supra, the Court said "where statutes are concerned the trend is toward enlargement of the class of people who may protest administrative action." 397 U.S. 154. For this reason any doubts concerning standing should be resolved in favor of plaintiffs. In People v. United States Department of Agriculture, 427 F. 2d 561 (D.C. Cir. 1970) where poor people challenged the administration of various food stamp and commodities distribution statues, the court said 563, 564:

> The pertinent principles on the subject of standing, have been reviewed and restated in our recent en banc decision in Curran v. Laird, 420 F. 2d 122 (1969) which discussed the recent Supreme Court precedents and underlying principles. These principles establish a presumptive standing, operative unless negatived by a statutory provision, which permits a complaint, alleging that executive programs unlawfully deviate from statutory requirements to be filed by those who were intended beneficiaries of the statutory provisions, even though they are not the primary beneficiaries of the statute.

There can be little doubt that the plaintiffs were in the category of those Congress intended to benefit in the food stamp program. This appears plainly from 7 U.S.C. § 2011 (1964), wherein Congress declared:

> 'It is hereby declared to be the policy of Congress, in order to promote the general welfare that the Nation's abundance of food should be utilized. . .to safeguard the health and well-being of the Nation's population and raise levels of nutrition among low income households. . .'
>
> The principles of standing discussed above establish the standing of poor people to complain of illegal departures by the Secretary from the Congressional plan, since they are an intended beneficiary of Congress, and this principle is neither undercut by the fact that the farmers were also beneficiaries, nor dependent on some process of appraisal to determine whether the poor people weighed heavier in scales than the farmers, or which would be labeled the primary beneficiaries. (Emphasis added).

See also, Environmental Defense Fund, Inc. v. Ruckelshaus, 39 U.S.L.W. 2389 (DC Cir. 1/7/71); Environmental Defense Fund, Inc. v. Hardin, 428 F. 2d 1093 (DC Cir. 1970); North City Area Wide Council, Inc. v. Romney, 428 F. 2d 754 (3rd Cir. 1970) (Sustaining challenge to noncompliance with Model Cities community participation requirements); Curran v. Laird, 420 F. 2D 122 (DC Cir. 1969); Wingate Corp v. Industrial National Bank, 408 F. 2d 1147 (1st Cir. 1969) cert. den. 397 U.S. 987 (1970); Gomez v. Florida State Employment Service, 417 F. 2d 569 (5th Cir. 1969); Scenic Hudson Preservation Conf. v. Federal Power Commission, 354 F. 2d 608 (2d Cir. 1965) cert. denied Consolidated Edison Co. v. Scenic Hudson Preservation Conference, 384 U.S. 941 (1966).

Third, judicial review is nowhere precluded.[2] Although defendants have

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[2] Indeed the Administrative Procedure Act, 5 USC 703 (1964 ed. Supp. IV) would seem to encourage judicial review an may even provide an independent source of jurisdiction for the Court. See, eg. Brennan v. Udall, 379 F. 2d 803 (10th Cir.) cert. denied, 389 US 975 (1967) Coleman v. United States, 363 F. 2d 190 (9th Cir. 1966) aff'd on rehearing 379 F. 2d 555 (1967) rev'd on other grounds, 390 U.S. 599 (1968) Cappadira v. Celebrezze, 356 F. 2d 1 (2nd Cir. 1966); Estradal v. Ahrens, 296 F. 2d 690 (5th Cir. 1961).

the burden of demonstrating preclusion, See, e.g. Abbott Laboratories v. Gardner, 387 U.S. 136 (1967) they have not attempted to do so. As the Court said in Barlow, supra, at 166, 167:

> Preclusion of judicial review of administrative action adjudicating private rights is not to be lightly inferred. See, Leedom v. Kyne, 358 U.S. 184; Harmon v. Brucker, 355 U.S. 579; Stark v. Wickard, 321 U.S. 288; American School of Magnetic Healing v. McAnnulty, 187 U.S. 94. Indeed, judicial review of such administrative action is the rule, and nonreviewablility an exception which must be demonstrated. In Abbott Laboratories v. Gardner, 387 U.S. 136, 140, we held that "judicial review of a final agency action by an aggrieved person will not be cut off unless there is persuasive reason to believe that such was the purpose of Congress.". A clear command of the statute will preclude review; and such a command of the statute may be inferred from its purpose. Switchmen's Union v. National Mediation Board, 320 U.S. 297. It is, however, "only upon a showing of 'clear and convincing evidence' of a contrary legislative intent" that the courts should restrict access to judicial review Abbott Laboratories v. Gardner, supra, at 141.

Despite the above cited principles, the federal and local defendants contend that review is precluded because the U.S. Office of Education of the Department of Health, Education, and Welfare has exclusive jurisdiction at this time to review questions as are raised in plaintiffs' complaint and that it is presently investigating the problems presented therein.[3] This exact argument was specifically rejected in a similar context by the Supreme Court in Rosado v. Wyman, 397 (1970). There the statutory relationship between HEW and the state under the Social Security Act was substantially analagous to that present in the instant case under the applicable Title I Section.

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3 Mrs. Overberg's affidavit clearly refutes the additional contention of the local defendants that no complaints were ever made to defendants.

Compare 20 U.S.C. § 241j with 42 U.S.C. § 604.[4] Relying on the principles set forth in Association, supra, and Barlow, supra, the court rejected any preclusion of jurisdiction and Justice Harlan said at 397 U.S.:405:

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4 20 U.S.C. § 241; reads:

> Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under § 241e(c), 241(b), or 241h-1(b) of this title, the Commissioner shall notify the agency that further payments will not be made to the State under this subchapter (or, in his discretion, that the State educational agency shall not make further payments shall be made to the State under this subchapter, or payments by the State educational agency under this subchapter shall be limited to local educational agencies not affected by the failure, as the case may be.

42 U.S.C. § 604 reads:

> (a) In the case of any state plan for aid and services to needy families with children which has been approved by the Secretary, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan finds-
>
> (1) that the plan has been so changed as to impose any residence requirement prohibited by section 602(b) of this title, or that, in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases, or
>
> (2)that in the administration of the plan there is a failure to comply substantially with any provision required by section 602(a) of this title to be included in the plan;
>
> The Secretary shall notify such State agency that further payment will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the state plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payment to categories under or parts of the State plan not affected by such failure.

A further reason given to support the contention that that the District Court should have declined to exercise jurisdiction is that the Department of Health, Education, and Welfare was the appropriate forum,at least in the first instance, for resolution on the merits of the questions before us, and that at the time this action came to Court HEW was"engaged in a study of the relationship between Section 602(a)(23) and Section 131-a." 414 F. 2d at 176 (opinion of Judge Hays). Petitioners answer, we think correctly, that neither the principle of "exhaustion of adminstrative remedies" nor the doctrine of "primary jurisdiction" has any application to the situation before us. Petitioners do not seek review of any administrative order, nor could they have obtained an administrative ruleing since HEW has no procedures whereby welfare recipients may trigger and participate in the Department's review of state welfare programs. Cf. Abbot Laboratories v. Gardner, 387 U.S. 136, 87 S.Ct. 1507, 18 L. Ed. 2d 681 (1967); K. Davis, Administrative Law § 19.01 (1965); L. Jaffe, Judicial Control of Administrative Action 425 (1965).

and further at 397 U.S. 420:

We have considered and rejected the argument that a federal court is without power to review state welfare provisions or prohibit the use of federal funds by the States in view of the fact that Congress has lodged in the Department of HEW the power to cut off federal funds for noncompliance with statutory requirements. We are most reluctant to assume Congress has closed the avenue of effective judicial review to those individuals most directly affected by the administration of its program. Cf. Abbot Laboratories v. Gardner, 387 U.S. 136, 87 S. Ct. 1507, 18 L.Ed. 2d 681 (1967); Association of Data Processing v. Camp, 397 U.S. 150, 90 S.Ct. 827, 25 L.Ed. 2d 827 (1970); Barlow v. Collins, 397 U.S. 159, 90 S.Ct. 832, 25 L. Ed. 2d 192(1970).

and further at 397 U.S. 422:

It is, on the other hand, peculiarly part of the duty of this tribunal, no less in the welfare field than in any other areas of the law, to resolve disputes as to whether federal funds allocated to the State are being expended in consonance with the conditions that Congress has attached to their use. As Mr. Justice Cardozo stated, speaking for the Court in Helvering v. Davis, 301 U.S. 619, 645, 57 S.Ct. 904,910, 81 L. Ed. 1307 (1937): "When [federal] money is spent to promote the general welfare, the concept of welfare or the opposite is shaped by Congress not the states."

Similarly, Commissioner Bell's affidavitt implicitly recognizes that there are no procedures under Title I whereby plaintiffs "may trigger and participate" in any review by the Office of Education of state and local Title I programs.[5] As the affidavit indicates, the Office of Education at best announces its receptiveness to complaints, and expresses its willingness to look into them the next time it visits the state. Until that time the

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5 In his concurring opinion in Rosado, supra, Justice Douglas described at 397 U.S. 425 the impotence of private individuals obtaining review under the analagous provisions of the Social Security Act:

> "The fact that the Department of Health, Education, and Welfare is studying the relationship between the contested provision of the New York statute and the relevant section of the Social Security Act is irrelevant to the judicial problem. Once a State's AFDC plan is initially approved by the Secretary of Health, Education, and Welfare, federal funds are provided the State until the Secretary finds, after notice and opportunity for hearing to the State, that changes to the plan or the administration of the plan are in conflict with the federal requirements. Social Security Act § 404(a), 49 Stat. 628, as amended, 42 U.S.C. § 604 (a) (1964 ed., Supp. IV.)
>
> The statutory provisions for review by HEW of state AFDC plans do not permit private individuals, namely present or potential welfare recipients, to initiate or participate in these compliance hearings. Thus, there is no sense in which these individuals can be held to have failed to exhaust their administrative remedies by the fact that there has been no HEW determination on the compliance of a state statute with the federal requirements. . . .HEW has been extremely relectant to apply the drastic sanction of cutting off federal funds to States which are not complying with federal law. Instead, HEW usually settles its differences with the offending States through informal negotiations. See. Note, Federal Judicial REview of State Welfare Practices, 67 Col. L. Rev. 84, 91-92 (1967).
>
> Whether HEW could provide a mechanism by which welfare recipients could theoretically get relief is immaterial. It has not done so, which means there is no basis for the refusal of federal courts to adjudicate the merits of these claims. Their refusal to act merely forces plaintiffs into the state courts which certainly are no more competent to decide the federal question than are the federal courts."

status quo remains and the aggrieved party has absolutely no guarantee that his Title I complaint will be reviewed.[6] As the complaint and Mrs. Overberg's affidavit indicate, numerous complaints have been made to no avail. If review is deferred now, the plaintiffs will be without a remedy. Thus under these circumstances, where it is alleged that plaintiffs rights continue to be violated, it is clear that delayed judicial enforcement is unwarranted. See, e.g. Rosado v. Wyman, supra, Lewis v. Martin, 397 U.S. 902 (1970); King v. Smith, 392 U.S. 309 (1968); Bossier Parish School Board v. Lemon, 370 F. 2d 847 (5th Cir. 1967); cert. denied 388 U.S. 911 (1967); Shepheard v. Godwin, 290 F. Supp. 869 (DC Va. 1968); Gautreaux v. Chicago Housing Authority, 265 F. Supp. 582 (DC Ill. 1967).

Finally, with respect to standing, the defendants contend that certain relief requested by the complaint is inappropriate making the complaint dismissable. The basic objection concerns the request for an injunction compel-

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6 Indeed, HEW has itself recognized both the effect of Rosado, and the ineffectiveness of its own administrative process.

"Rosado, of course, makes it clear that it would be improper to require appellees to wait upon conclusion of the federal state negotiations for resolution of the conformity issue they have raised. Ibid. As this Court intimated, the practical consequences of the Secretary's initiating action to cut off funds are so extreme that even the threat of such an action cannot be made lightly; he believes such pressures are not to be exerted except as a last resort. In view of the negotiations which must precede them, and the delays made inevitable by the multitude of state plan amendments and administrative matters which must be considered each year, speedy resolution of such issues within the federal administrative process is not to be expected." HEW Brief Amicus Curiae in Wyman v. Rothstein, 398 U.S. 275 (1970) page 12, n. 8.

ling the federal defendants to withhold future Title I funds for Providence if state and local defendants do not comply with the applicable laws, regulations and guidelines. Plaintiffs agree such a remedy would be drastic and hopefully not required. But,under any circumstance the relief requested is not relevant to the present motions. It is clear that under the Federal Rules of Civil Procedure:

> A prayer for relief constitutes no part of the pleader's cause of action; a pleading should not be dismissed for legal insufficiency unless it appears to a certainty that the claimant is entitled to no relief, legal and/or equitable, under any state of facts which could be proven in support of the claim, irrespective of the prayer for relief. 6.Moore's Federal Practice, Section 54, 60 p. 1208 (1968).

See, also, Norwalk Core v. Norwalk Redevelopment Agency, 395 F. 2d. 920, 925 (2d Cir. 1968), Schoonover v. Schoonover, 172 F. 2d. 526, 530 (10th Cir. 1949).

II. JURISDICTION

A. The Court Has Jurisdiction Over Both Federal and State Defendants Under the "Federal Question" Jurisdictional Statute, 28 U.S.C. Section 1331(a).

28 U.S.C. Section 1331(a) reads as follows:

> "The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States."

(1) The Matter in Controversy For Each Plaintiff Exceeds the Sum Or Value of Ten Thousand ($10,000.00) Dollars.

Plaintiffs have alleged that the amount in controversy exceeds $10,000 exclusive of interests and costs as required by 28 U.S.C. § 1331(a). Plaintiffs submit that the "right to an education" secured to each plaintiff by Title I is such a precious and important right as to confer jurisdiction. This

contention has been accepted by Judge Gignoux in Colpitts v. Richardson, supra: While direct monetary loss to each plaintiff from misuse of Title I funds might be less than $10,000, the lost educational opportunities resulting from the unlawful expenditure of Title I funds, and the impact of that loss on a recipient's personality and life prospects, should be valued at greatly in excess of $10,000. A national survey of earnings as they relate to educational levels found that high school graduates earned more than $30,000 above the earnings of non-graduates over thier working life. Sexton, Education and Income, 13-15(1966). The difference between non-college and college graduates must be even greater. Title I is intended to meet the special educational needs of low income children and thereby to improve their performance in school and their prospects of attaining higher education. Title I, educational attainment, and life prospects are thus connected in such a way that diversion of Title I funds may indirectly cause more than $10,000 in damages for each plaintiff. Moreover, the right to an education is itself a precious individual right of incalculable value to the spiritual life of the individual, without which, delinquency, criminal behavior and other wastes of lives may result. These facts were recognized by President Johnson in his message to the Senate Committee considering Title I, See. Senate Report No. 146, 1965 U. S. Code Cong. & Admin. News. 1488-1449 (89th Cong. 1st Sess.)

Although concededly the total investment of Title I funds per pupil over a 12 year period of schooling is far below, $10,000, the amount in Controversy for purposes of 28 U.S.C. 1331 is far greater. Because plaintiffs are seeking injunctive relief instead of damages, the amount in controversy is the value of the right to be protected or the extent of the injury to be prevented. See. e.g. Pennsylvania R. Co. v. City of Girard, 210 F. 2d 437 (6th Cir. 1954); 1 Barron & Holtzoff, Federal Practice and

Procedure (Wright ed. Sec. 24 n. 54) The jurisdictional amount requirement is intended to give the United States District Courts jurisdiction in all "substantial controversies" where other elements of federal jurisdiction are present. S. Rep. No. 1830, 85th Cong. 2d Sess. (1958); 1958 U.S. Code & Cong. Adm. News, pp. 3099, 3101.

As Congress has expressly recognized that the right in question here is the right to adequate education. 20 U.S.C. Sec. 241a. For this reason, the Court should follow the lead of Judge Gignoux and numerous other courts that have approached jurisdictional amount quite flexibly when education has been involved. Oestereich v. Selective Service System, 393 U.S. 233 (1968); Marquez v. Hardin, 339 F. Supp. 1364 (DC Cal. 1969) (School lunches); Walsh v. Local Board No. 10, 305 F. Supp. 1274;(DC NY 1967) (Judicial notice of pecuniary rewards of education); Armendaris v. Hershey, 295 F. Supp. 1351 appeal dismissed, 413 F.2d 1006 (5th Cir. 1969); Connelly v. Univ. of Vermont, and State Agricultural College, 244 F. Supp. 156, 159 (DC Vt. 1965)[7] Applying these principles defendants have failed to demonstrate to a legal certainty that the claim is really for less than the jurisdictional amount. See, e.g. St. Paul Mercury Indemnity Co. v. Red Cab Co., 303 U.S. 283, 288 (1938)

(2) The Claims Are Common and Undivided, and Therefore Aggregation is Possible. *

> "The settled rule is that when two or more plaintiffs having separate and distinct demands unite in a single

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7 Because the viability of a state court claim against federal officials is questionable, inablility by plaintiffs to demonstrate jurisdictional amount or avail themselves of other jurisdictional sections, may raise serious questions concerning the constitutionality of 28 U.S.C.§ 1331(a). See Murray v. Vaughn, 300 F.Supp. 688, 695 (DC R.I. 1969).

* See supplement (p.3) on Undivided Interest in a Common Fund

> suit, it is essential that the demand of each be of the requisite jurisdictional amount; but when several plaintiffs unite to enforce a single title or right in which they have a common and undivided interest, it is enough if their interests collectively equal the jurisidctional amoung." Pinel v. Pinel, 240 U.S. 594, 596 (1916). See also Snyder v. Harris, 394 U.S. 332 (1969).

In Berman v. Narragansett Racing Association, Inc., 414 F. 2d 311 (1st Cir. 1969), a group of horseowners brought a class action to force race tracks to distribute a larger share of the purse money to the owners. The suit depended on a certain alleged contract right which the owners' collectively enjoyed against the track. If the owners were successful, the track's only obligation would be to pay a certain fund over to the owners as a group; the track had no obligation to make any distribution to individual owners. Thus, even though eventually each owner would receive a definite share of the money (apparently the owners would make the distribution among themselves), the owner's rights against the track were deemed by the Court to be common and undivided:

> ". . .these claims constitute in their totality an integrated right against the defendant. . .No contractual rights are created between the defendants and individual purse-winners, and plaintiffs make no specific claims for individual payment. . . Demonstrably, the instant case is not a collection of individual lawsuits brought solely for the convenience of the claimants. . ."Berman supra, at 315-316.

Applying the above analysis to the facts of the present case, it is clear that educationally deprived children have a common and undivided interest in the lawful expenditure of Title I funds generally. Plaintiffs are not making individual claims and simply joining them together for their own convenience. Dividing the total number of dollars received under Title I by the number of educationally deprived students is an artificial and unrealistic way of looking at each student's interest in the program. Each plaintiff is

not demanding 1/20th of a Title I teacher, or 1/2 of a textbook, or 1/50th of an educational film.[8] Each plaintiff is demanding the supplemental educational services to which he is entitled, and this means a fully salaried teacher and the whole array of educational equipment and supplies nexessary to provide such services. Thus each educationally deprived child has a common and undivided interest in the total Title I grant to his school unit; and since Providence has received approximately 1.5 million dollars for each of the 5 years of the operation of Title I (see plaintiffs' Complaint, 19) the total amount in controversy is greatly in excess of $10,000.

B. 28 U.S.C. Sections 1343(3) and 1343(4) Provide Additional Independent Bases For Jurisdiction Over the State and Local Defendants. *

Title 28 United States Code, Section 1343 provides:

> "The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:
>
> * * *
>
> (3) To redress the deprivation, under color of any State Law. . .of any right, privilege or immunity secured by. . .any Act of Congress providing for equal rights of citizens. . .;
>
> (4) To. . .secure equitable or other relief under an Act of Congress providing for the protection of civil rights.

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8 In this sense, aggregation in the present case is even more justifiable than in Berman, supra, for in Berman, the fund would eventually be broken down into dollars and cents for each individual owner:" The interests of the plaintiffs, vis a vis the matter in controversy, are 'common and undivided' an the fact that their interests are separable among themselves is immaterial." Id, at 316.

* See supplement (p.3) on Jurisdiction Under §1343(3) and (4)

42 U.S.C. Section 1983 provides:

> "Every person who, under color of any statute, ordinance, regulation, custom, or usgage of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

This suit seeks to redress rights secured by Title I of the Elementary and Secondary Education Act of 1965 and the Civil Rights Act, 42 U.S.C. § 1983. The instant suit clearly falls within 42 U.S.C. § 1983 as it alleges action by the state and local defendants under color of state law[9] to deprive plaintiffs of rights and privileges guaranteed by Title I. See. e.g. Peacock v. City of Greenwood, 384 U.S. 808 (1964). Bomar v. Keyes, 162 F. 2d 136, 139 (2nd Cir. 1947). Subsection 1343(4) quite literally provides federal jurisdiction for any suit, as here seeking equitable relief under the Civil Rights Act, 42 U.S.C. Sec. 1983. Jurisdiction also exists under subsection 1343(3) since both Title I and Section 1983 are "Acts of Congress providing for equal rights of citizens" within the meaning of 1343(3).

Section 1343(4) provides that the district courts shall have original jurisdiction of any civil action "to secure equitable or other relief under any Act of Congress providing for the protection of civil rights" 42 U.S.C. § 1983 is commonly referred to as the Civil Rights Act with the clear purpose of protecting civil rights. See, e.g. Damico v. California, 389 U.S. 416 (1967);

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9 Plaintiffs cannot understand how the city defendants can claim they have not acted under color of state law. Both city and state defendants, occupy official statutory positions. See, e.g. General Laws of R.I. 16-1-2, 16-2-11 and 16-2-25. In addition it is clear that all city and state defendants have acted in concert to meet the "state action" test of United States v. Price, 383 U.S. 787, 794 (1966).

McNeese v. Board of Education, 373 U.S. 868 (1963); Consequently any cause of action under Section 1983 is "under" an "Act of Congress providing for the protection of civil rights and Section 1343(4) quite literally provides federal jurisdiction, in the instant case. See, e.g. Hall v. Garson,430 F. 2d 569, 579, 580, (5th Cir. 1969); York v. Story, 324 F. 2d 450 (9th Cir. 1963) cert. denied 376 U.S. 939 (1964). Worrell v. Sterrett, 2 CCH Pov. L. Rep. Para. 10,474 (D.C. Ind. 10/4/69).

Subsection (3) of 28 U.S.C. Sec. 1343 is an additional independent basis for jurisdiction, granting the district courts original jurisdiction of any civil action to redress the deprivation under color of state law of any right secured by "any Act of Congress providing for the equal rights of citizens." The instant suit alleges that the State and local defendants have acted under color of state law to deprive plaintiffs of rights secured by two acts of Congress providing for the equal rights of citizens: Title I and 42 U.S.C. Sec. 1983.

It is clear that Title I is an equal rights statute. From the beginning, the primary function of Title I was to determine that no child should be denied equal educational opportunity because of poverty:

> TITLE I - GRANTS TO LOCAL PUBLIC SCHOOL DISTRICTS TO BROADEN AND STRENGTHEN ELEMENTARY AND SECONDARY SCHOOL PROGRAMS
>
> The need:
>
> > It has been apparent for some time that there is a close relationship between conditions of poverty and lack of educational development and poor academic performance. The 10 States with lowest per capita personal income in 1963 had selective service rejection rates for the mental tests well above the average for the 50 states for that year. The rate for these states ranged from 25 to 48.3 percent as compared to the national average of 21.6 percent. At the other extreme, school districts with the highest percentages of pupils qualifying for science awards, national scholarships, and college entrance tend to be found in high-income areas. Dropout rates follow an inverse ratio with income levels.

> Testimony presented to the committee illustrated sharply and starkly that the conditions of poverty or economic deprivation produce an environment which in too many cases precludes children from taking full advantage of the educational facilities provided. They have been conditioned by their home environment or lack thereof, so that they are not adaptable to ordinary educational programs. Environmental conditions and inadequate educational programs rather than lack of basic mental aptitude carry the major responsibility for the later failure of these children to perform adequately in the school system.
>
> The federal concern with poverty as a national problem is evidenced in recent major legislation passed by the Congress. Title I can be considered as another very potent instrument to be used in the eradication of poverty and its effects. Under Title I of this legislation the schools will become a vital factor in breaking the poverty cycle by providing full educational opportunity to every child regardless of economic background"
> Senate Report (Labor and Public Welfare Committee) No. 146, April 6, 1965, U.S. Code Cong. & Adm. New, 1446, 1449-1450 (89th Cong. 1st Sess.) (Emphasis added).

20 U.S.C. Section 241a makes it clear that the equal rights purposes described above are the continuing functions of Title I. Thus, since Title I is a law providing for equal rights, and this suit is one to redress the deprivation under color of state law of rights secured by that act, 28 U.S.C. Sec. 1343(3), provides a basis of jurisdiction.

In addition, it is clear that 42 U.S.C. Section 1983, the Civil Rights Act is an "Act of Congress providing for equal rights of citizens". Section 1983, while creating no substantive rights itself, provides a federal cause of action where state officials act to deprive any person of rights secured by the Constitution or laws of the United States, including rights under federal statutes like Title I. Gomez v. Florida Employment Service, supra. The reason for creating this federal cause of action "was to provide a remedy

in the federal courts supplementary to any remedy any state court might have." McNeese v. Board of Education, supra at 672. Thus, Section 1983 is a law providing for equal rights by assuring that the federal rights of citizens will be equally respected on a nationwide basis, through equal enforcement powers in the state federal courts.[10] See Georgia v. Rachel, 384 U.S. 780, 792 (1966)(1983 is a law that "confer[s] equal rights.").

C. The Court Has Jurisdiction With Respect to Federal Defendants Under the "Mandamus" Statute, 28 U.S.C. § 1361. *

28 U.S.C. § 1361 provides:

> "The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff."

Defendant Richardson is Secretary of HEW. Under 42 U.S.C. § 3501, he has overall responsibility for the activities of HEW and his subordinates in the Department, and under U.S.C. § 2, he is responsible for the supervision of the United States Office of Education. (hereafter USOE). Pursuant to this responsibility the Secretary has from time to time promulgated, and has responsibility for enforcing, regulation governing the administration of Title I funds, see 45 C.F.R. 116.

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10 The language of Section 1983 and Section 1343(3) is generally parallel. The only apparent distinction being that while 1983 creates the cause of action for deprivation of any federal statutory right, 1343(3) creates jurisdiction where the statutory right is one secured by an Act "providing for equal rights". The history of these provisions reveals that Section 1983 is indeed an act providing for equal rights and the linguistic discrepancy was in no way intended to deprive litigants of a federal forum for causes under Section 1983.

See Note, Federal Judicial Review of State Welfare Practices 67 Columbia Law Review, 84(1967).

* See supplement (p.6) on § 1361

Defendant Bell is Commissioner of USOE and, under 20 U.S.C. § 2, he has general authority over the activities of USOE. Under 20 U.S.C. § 241a et seq., he has responsibility for paying Title I funds to State educational agencies, and for enforcing the applicable laws, regulation, guidelines, etc.

Defendant Fairley is acting Director of the Division of Compensatory Education, USOE and, in conjunction with defendant Bell, has direct responsibility for allocating Title I funds to State educational agencies and enforcing the applicable laws, regulation, guidelines, etc.

The federal defendants have failed to take adequate steps to seek compliance with Title I by local Providence officials.[11]

Plaintiffs ask the court to grant an injunction providing that the United States Office of Education cut off Title I funds to Providence in the future if local officials fail to bring Providence's Title I Program into conformance with the law; or such other relief the court deems appropriate, i.e. Providing federal defendants conduct audits, follow-ups, check-offs and other monitoring procedures to ensure compliance.

The United States Commissioner of Education has a mandatory duty to cut off Title I funds if the state or local educational agencies fail to comply and a mandatory duty to monitor local programs. Although there is no express requirement in the statute that the federal government monitor local programs, the duty is clearly implied. 28 U.S.C. 241; provides that:

> "Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been failure to comply substantially with any assurance set forth in the application of that State approved under section

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11 Mrs. Overberg's affidavit clearly demonstrates that the federal defendants have failed to take any action to correct abuses in Providenc'es Title I Program.

> 241e(c), 241f(b), or 241H-1(b) of this title, The Commissioner shall notify the agency that further payments will not be made to the State under this subchapter (or, in his discretion, that the State educational agency shall not make further payments under this subchapter to specified local educational agencies affected by the failure). . ." (emphasis added).

If the Commissioner has a mandatory duty to cut off Title I funds "whenever [he] finds. . .a failure to comply, "is it not clear that the Commissioner must take reasonable steps to enable him to determine whether there is compliance? If, for example, the Commissioner simply did nothing to determine whether there was compliance (an accurate description of the situation in Providence prior to this litigation),he would never be required by the statute to cut off the funds since, under its literal terms, he would never "find" non-compliance. Obviously, however, such a literal construction would "emasculate the meaning of the [cut off provision] to the extent that it is rendered an absurdity, a nonentity, a futile exercise of the legislative will." Cassibry, J., dissenting in Lampton v. Bonin, 304 F. Supp. 1384, 1389 (E.D. La. 1969). The monitoring procedures are so basic to the performance of the Secretary's and the Commissioner's statutory duty that they cannont be fairly heard to say that the Court would be interfering with their discretion. See, in this connection, 45 C.F.R. §§ 116.31(f), (g), (h), and 116.48(a), (b). There is no discretion to avoid enforcement of the law and to allow the abuses complained of to continue.

Section 1361 grants jurisdiction to this Court to compel defendants to exercise their discretion, see, e.g. Guffanti v. Hershey, 296 F. Supp. 553 (D.C.N.Y. 1969); Hill v. United States Board of Parole, 257 F. Supp. 129 (D.D. Pa. 1966) and even to compel ministerial acts when required, see, e.g. Ragoni v. United States, 424 F. 2d 261 (3rd Cir., 1970); Smith v. McNamara, 395 F. 2d 896 (10th 1968); Ashe v. McNamara, 355 F. 2d 277 (1st Cir. 1965);

Walker v. Blackwell, 360 F. 2d 66 (5th Circ., 1966); Murray v. Vaughn, 300 F. Supp. 688 (D.C.R.I., 1969). See also Byse and Fiocca, Section 1361 of the Mandamus and Venue Act of 1962 and "Non Statutory" Judicial Review of Federal Administrative Action, 81 Harv. L. Rev. 308, 351-353 (1967). Thus, in Hill v. United States Board of Parole, supra the Court said at 130:

> The purpose of 28 U.S.C. §1361 is to compel a Government official or agency to perform a duty or to make a decision. Here the decision has been made. The statute was aimed at compelling an official or agency to act where the official or agency has failed to make any decision in a matter involving the exercise of discretion, but only to order that a decision be made with no control over the substance of the decision. 1962 U.S. Code Cong. & Ad. News p. 2787; See Schillinger v. U.S. Dept. of Justice et al., 259 F. Supp. 29 (M.D. Pa. Decided April 15, 1966).

In Marquez v. Hardin, 339 F. Supp. 1364 (D.C. Cal. 1969), a case analagous to the present suit, Judge Peckham found jurisdiction under Section 1361 where plaintiffs sued to require the Secretary of Agriculture to perform his statutory duty to ensure that all needy school children participated in the National School Lunch Program. Judge Peckham, at page 4 of his opinion, states,

> "Looking at the statute, it is fair to say that if the Secretary of Agriculture learns that federal funds are being applied in a manner substantially different from the congressional mandate, it is his duty to in some way remedy the situation. The statute says that the free or reduced price lunches "shall" be served to needy children and that the local agencies shall keep records" as may be necessary to enable the Secretary to determine whether the provisions of this chapter are being complied with." 42 U.S.C. 1758, (1760)a. If the local agencies fulfill their obligation to determine who is needy, then the Secretary need do nothing. If it is brought to his attention that the States are misapplying the funds he should take steps to insure that either the funds are applied correctly or terminated."

In Colpitts v. Richardson, supra, Judge Gignoux, similarly discussed the statutory duties upon state and federal Title I officials to exercise their discretion to ensure Title I criteria are being met. Although it was not necessary to reach the question of whether § 1361 mandamus jurisdiction was conferred, the Court in Colpitts said:

> "Defendants say that the manner in which the obligation is to be exercised is discretionary. But at the least plaintiffs are entitled to show that the state and federal defendants have not even attempted to exercise any discretionary authority they have, and to that extent have not complied with a specific statutory obligation." Colpitts Bench decision, page 6, Appendix B.

Thus, it is clear that § 1361 mandamus jurisdiction is not limited directly to mandatory functions and jurisdiction will lie here where it has been alleged that discretion in no way has been exercised.

III. THE FEDERAL AND LOCAL DEFENDANTS MOTION FOR SUMMARY JUDGMENT MUST BE DENIED.

A. Because Defendants Have Denied Relevant Discovery to Plaintiffs, They Lack Standing To Move For Summary Judgment.

The federal and local defendants have moved for summary judgment relying solely upon the affidavit of defendant Bell in support thereof. Yet, despite a great disparity in access to proof they have refused to provide plaintiffs with relevant and timely requests for discovery. The federal defendants have refused to answer relevant interrogatories, pending determination of these motions. The local defendants have refused timely and relevant requests for production of documents. Plaintiffs are entitled to many of these documents as parents and interested citizens. See, e.g. 20 U.S.C. 241e(a)(8). 45 C.F.R. 116. 18f; 45 C.F.R. 116.34d, Program Guide 54. Defendants' denial of information to plaintiffs has been continual and one of the bases for this

complaint. For this reason the federal and local defendants are in no position to move for summary judgment. As the Court said in Bane v. Spencer, 393 F. 2d 108(1st Cir. 1968) at 109:

> ". . .it should be fundamental that a defendant who has failed to answer relevant and timely interrogatories is at least normally in no position to obtain summary judgment. See Toebelman v. Missouri & Kansas Pipe Line Co., 3rd Circ. 1942, 130 F. 2d 1016, 1022."

The above principles are especially applicable here because the discovery requested was relevant to the pending motions. See, Bane, supra. In addition refusal of discovery plus the great disparity of access to proof must be considered. As the Court said in Curto's, Inc. v. Krich - New Jersey, Inc. 193 F. Supp. 235 (D.C.N J. 1961) at 238:

> "Another factor properly to be considered by a Court in deciding a motion for summary judgment is whether or not the party opposing the motion has had access to the proof. Moore's Federal Practice Vol. VI, para. 56.15. In this action, where the proof (if there be any) will be peculiarly within the knowledge or control of the defendants, plaintiff should be granted the opportunity of proceeding with its discovery in accordance with the appropriate rules."

B. Defendants Have Not Met Their Burden To Show The Absence Of Genuine Issue of Material Fact.

As the moving parties, defendants have the burden of showing the absence of a genuine issue as to any material fact, and for these purposes the affidavit submitted must be viewed in the light most favorable to plaintiffs. See, e.g. Adickes v. S. H. Kress and Company, 398 U. S. 144, 151 (1970); United States v. Diebold, 369 U.S. 654 (1962). Defendants have failed to meet this burden even to the extent of attacking the substance of the complaint's allegations. The complaint alleges numerous and continuing violations of Title I criteria by local defendants and a continuing failure of the state and local defendants to properly investigate, audit, evaluate and monitor these discrepancies. The only salient facts to be gleaned from defendant Bell's

affidavit if any are (1) that he has concluded that the Title I program in Rhode Island is in substantial accord with the assurances given by the state defendants to conduct the program properly, (para.3); (2) program review and audit of the Providence Title I program including consideration of plaintiffs' complaint is in progress, (para 4)[12]; (3) it is not possible for the federal defendants to determine the efficacy of plaintiffs' complaint, (para. 5). The third point constitutes an admission that the substantial allegations of Title I violations in plaintiffs' complaint have not been denied by the only submitted affidavit. This failure plus substantial evidence in Mrs. Overberg's affidavit, that numerous past complaints have been ignored indicates a clear genuine issue of material fact.[13] Certainly, under these circumstances, the instant suit as a complex public issue case should not be determined by summary judgment. See, e.g. Poller v. Columbia Broadcasting System, 368 U.S. 464 (1967); Kennedy v. Silas Mason Co., 334 U.S. 249 (1948); Arena v. United States, 322 U.S. 419 (1944).

CONCLUSION

Defendants' Motions for dismissal and/or summary judgment should be denied.

Respectfully submitted,

Cary J. Coen

Harold Krause

RHODE ISLAND LEGAL SERVICES, INC.
56 Pine Street
Providence, Rhode Island

OF COUNSEL:

Mark G. Yudof
38 Kirkland Street
Cambridge, Massachusetts

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12 As has been previously discussed, the fact that the federal defendants are considering the problems raised by the complaint is irrelevant to its reviewability. See e.g. Rosado v. Wyman, supra.

13 In view of the failure of defendants to deny the allegations of the complaint, plaintiffs were not obligated to file a counter-affidavit. See, e.g. Adickes v. S.H. Kress and Company, supra at 160; Bane v. Spencer, supra, Brunswick Corporation v. Vineberg, 370 F. 2d 605, 612 (5th Cir. 1967) but are well aware of the perils of such a procedure. See 6 Moore, Federal Practice, para. 56.22[2] at 22824-25 (2d ed. 1966).

CERTIFICATE

I, Harold E. Krause, Jr., hereby certify that on the 3rd day of February, 1971, I mailed a true copy of the foregoing Memorandum in Opposition to Defendants' Motions for Dismissal and Summary Judgment to Vincent Piccirilli, Attorney for Defendants, at 514 Industrial Bank Building, Providence, Rhode Island, Robert J. McOsker, Attorney for Defendants, at City Hall, Providence, Rhode Island, Lincoln Almond, Attorney for Defendants, at Federal Court Building, Providence, Rhode Island, and W. Slater Allen, Jr., Attorney for Defendants, 205 Benefit Street, Providence Rhode Island.

Harold E. Krause, Jr.

Babbidge et. al. v. Richardson et. al., Civil Action No. 4410 (D.C. R.I. February 8 , 1971)

On February 8 , 1971 Chief Judge Day denied the motions to dismiss. The court held that there was jursdicition under 28 U.S.C. Sec. 1331 and that the plaintiffs had standing citing Flast, Peoples, Gomez and Lee v. Nyquist as controlling.

TITLE I

PARENTS OF EDUCATIONALLY DEPRIVED MAY SUE ON TITLE I, COURT RULES

Colpitts et al v. Richardson et al, Civil Action No. 1838 (D.C. Me. October 20, 1970).

In an important decision, a federal District court in Maine has held that parents of poor and educationally disadvantaged children have standing to sue to enforce Title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. Sec. 241a et seq], and that federal courts have jurisdiction over such an action.

This class action was brought by a parent of educationally deprived children in Calais, Maine on behalf of her children and all other disadvantaged children in the Calais system. Plaintiffs contend that although Title I was enacted by Congress specifically to help local school districts meet the special educational needs of poor children, the Calais School Unit has used a substantial portion of Title I funds for general school purposes which only incidentally benefit the "target children" who are the sole beneficiaries of the Act. The defendants, the local, state and federal educational officials responsible for the administration of Title I in Calais, have denied plaintiffs' allegations and also moved to dismiss the action on the grounds that the plaintiffs lack standing and the court lacks jurisdiction.

On October 20, 1970, at the conclusion of a hearing, Judge Edward T. Gignoux denied the motions to dismiss. Citing, *inter alia*, *Flast v. Cohen* [392 U.S. 83 (1968)], *Peoples v. U.S.* [427 F. 2d.561 (D.C. Cir. 1970)], and *Gomez v. Florida* [417 F. 2d. 569 (5th Cir. 1969)], the court held that parents of Title I "target" children have standing to seek judicial enforcement of Title I since such children are the intended beneficiaries of the Act. [20 U.S.C. Sec. 241a.] The court also agreed with plaintiffs' contention that the "right to an education" secured to each plaintiff by Title I is itself such a precious and important right that the court could not conclude "to a legal certainty" that less than $10,000 was "in controversy" as to each child. [*St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938).] Since plaintiffs' claims arose under a federal statute, the court concluded that it had jurisdiction as against all defendants under the "federal question" jurisdiction statute [28 U.S.C. Sec. 1331(a).]

The Secretary of Health, Education and Welfare (HEW), the U.S. Commissioner of Education, and the Maine Commissioner of Education also pressed upon the court the contention that even if there was standing and jurisdiction to enforce Title I against the local Calais defendants, the plaintiffs have no cause of action to enforce Title I against them. But the court held that insofar as the complaint alleged that state and federal officials have failed to perform statutory duties to enforce Title I in Calais, and that such failure has adversely affected the rights of the plaintiffs, the complaint stated a cause of action against state and federal as well as against local defendants. The court expressly reserved opinion, however, as to what relief might be appropriate should plaintiffs later succeed in proving the allegations of their complaint.

Plaintiffs are represented by George S. Johnson of Pine Tree Legal Assistance and Mark G. Yudof and Jeffrey W. Kobrick of the Center for Law and Education. The Secretary of HEW and the U.S. Commissioner of Education are represented by Peter Mills, United States Attorney, and John B. Wlodkowski, Assistant United States Attorney. The Maine Commissioner of Education is represented by Charles R. Larouche, Assistant Attorney General. Calais school officials are represented by Francis A. Brown, of Calais.

Reprinted from Inequality In Education, Number Six, November 13, 1970, page 27.

SUPPLEMENT TO THE BABBIDGE MEMORANDUM

Standing

Later cases which have determined that the ultimate beneficiaries of federal programs have standing to enforce federal requirements include Euresti v. Stenner 458 F2d 1115 (Opinion of Mr. Justice Clark) (10th Cir. 1972) (impoverished patients under Hill-Burton Act), and two district court decisions relying on the Hill-Burton Act. Cook v. Ochsner Foundation Hospital, 319 F. Supp 603 (E.D. La. 1970); Organized Migrants in Community Action v. James Archer Smith Hospital, 325 F.Supp.268 (S.D. Fla. 1971).

The tenth circuit, however, distinguished other cases that had implied remedies from federal statistics) in refusing to imply a remedy under the Immigration and Nationality Act for farm workers, against employers of Mexican nationals who had illegally entered the U.S. Chavez v. Freshpict Foods, Inc. 456 F2d 890 (1972).

Exhaustion of Federal Administrative Remedies

Other Supreme Court decisions relying explicitly or implicitly on Rosado are Lewis v. Martin 397 U.S. 552 (1970) and Wyman v. Rothstein, 398 U.S. 275 (1970).

The eighth circuit in Barrera v. Wheeler, 441 F.2d 795 (1971), specifically held, on the basis of Rosado , that Title I plaintiffs do not have to exhaust HEW administratative remedies, since

> "the Act and Regulations do not provide for any methods by which a private individual may present a claim and obtain relief or even file a complaint and be assured that investigative and corrective action will be taken."
> 441 F.2d at 799.

This determination was, in part, based on a brief amicus curiae filed in the case by the U.S. Commissioner of Education, who conceded that no such procedures existed. (This brief is included here as Appendix ___)

Barrera was followed in another Title I case, Kehrt v. Grile, Civ. No. 71 F 142, (D.C. N.D. Ind., Memorandum of Decision entered April 5, 1972) in which motions to dismiss filed by state education officials were denied.

The Rosado principle has permitted welfare recipients to maintain federal court actions even where HEW has brought a recalcitrant state to a formal conformity hearing to determine if federal funding of the state program should be terminated. See, e.g., Bryant v. Carleson, 444 F. 2d 353 (9th Cir. 1971) cert. denied, 404 U.S. 967 (1972). In the welfare area, HEW now permits welfare recipients to intervene in conformity hearings when called against state welfare agencies. However, welfare recipients may maintain federal actions without regard to the federal administrative procedures because they are still not permitted to "trigger" such proceedings. See, e.g., Bass V. Rockefeller, 331 F. Supp. 945 (S.D.N.Y. 1971).

Undivided Interest in a Common Fund

In Bass v. Rockefeller, 331 F.Supp 945 (S.D.N.Y. 1971) and Bass v. Richardson, 338 F. Supp. 478 (S.D.N.Y. 1971), the district courts held that the amount by which the state proposed to cut back its medicaid program was the "amount in controversy." The courts, analogizing to the preservation of a trust fund, reasoned that no individual plaintiff had a specific claim for a particular amount of medical benefits, but all sought to enforce their joint claim under the Social Security Act and that the state was required to maintain a certain range of services upon which they could later draw if a need for such services were established. In Carr v. Rubin, No. 71-2738 (C.D. LA. May 5, 1972), this theory was applied where a state medicaid program was challenged because it provided a range of services which were alleged to be less than required by the Social Security Act, and plaintiffs sought an expansion of the state's program.

Jurisdiction Under Title 42 U.S.C. § 1343 (3) and (4).

Notice that Title 42 U.S.C. § 1343 (3) and (4), while similar, have somewhat different coverage. A court that does not accept the argument that education is a civil right (and where no constitutional equal protection claim is made) may accept that Title I is an "Act of Congress providing for the equal rights of citizens." (§ 1343(3))

This argument could be made as follows:

Congress determined that educationally deprived children from impoverished homes should be given the opportunity to become more nearly equal in educational achievement to children from more favored backgrounds. As with those congressional acts that secure the voting and housing rights of racial minorities, Title I was intended to break the barrier created by a stigmatized and depressed background and permit equal participation in the society as citizens and as a productive individuals. Moreover, Congress implemented this intent to equalize the opportunities of the poor by requiring comparability -- the mandate which this action seeks to enforce.

There is a split of authority as to whether § 1343 (3) and (4) confer jurisdiction in the absence of a constitutional claim, and the Supreme Court has expressly reserved its resolution for future litigation. See King v. Smith, 392 U.S. 309 at 312 n. 3 (1968); Rosado v. Wyman, 397 U.S. 397 at 405 n.7 (1970). The starting point is a comparison of the language of 42 U.S.C. §1983 and 28 U.S.C. §1343. While §1983 authorizes a cause of action for deprivation of rights, privileges or immunities secured by federal "laws," §1343 is narrower and confers jurisdiction only in cases where those rights, privileges or immunities are secured by laws (3) providing for equal rights ... [or] (4) ... providing for the protection of civil rights ...." Some courts have ruled that §1983, which was originally the Civil Rights Act of 1871 and is now part of Title 42, ch. 21 entitled "Civil Rights," meets § 1343(4)'s requirement of being an act of Congress "providing for the protection of civil Rights." Therefore these courts have held that when the complaint states a claim under §1983 by alleging that a state statute or regulation violates a right secured

by a federal statute (i.e., the Social Security Act) there is automatically jurisdiction under §1343(4). See, e.g., Gomez v. Florida State Employment Serv., 417 2d 569 (5th Cir. 1969); Hall v. Garson, 430 F.2d 430 (5th Cir. 1970); Worrell v. Sterrett, supra; Stogner v. Page, (438) CCH. Pov. L. Rep. P10,928 (N.D. Ill. 1970), Bass v. Rockefeller, 331 F.Supp. 945 (S.D.N.Y. 1971). Other courts have reached the opposite conclusion. See, e.g., McCall v. Shapiro, 416 F.2d 246 246 (2d Cir. 1969); Almenares v. Wyman, 334 F.Supp 512 (S.D. N.Y. 1971, aff'd) 453 F.2d 1075 (2d Cir. 1971) cert. din. 405 U.S. 944 (1972).

With respect 1343(3), it can also be forcefully argued that legislative history of § 1343 (3) does not indicate that Congress intended there to be §1983 actions for which there was no federal jurisdiction, and thus the "equal rights" language of § 1343 (3) should not be read so as to limit the broad scope of "laws" in § 1983. See Note, "Federal Judicial Review of State Welfare Practices, 67 Colum. L. Rev. 83 (1967). Some courts, however, have considered and rejected the argument that, even assuming a gap between §1343 (3) and § 1983, the Social Security Act is a statute providing for "equal rights of all citizens." E.g., McCall v. Shapiro supra; Almenares v. Wyman, supra.

The probable consequence of a court holding that § 1343(3) or (4) are not applicable to a federal statutory claim, such as Title I, is the necessity to rely on § 1331 with its

$10,000 jurisdictional amount requirement See McCall v. Shapiro, 416 F.2d at 249-50.

Although, as indicated above, the Supreme court has reserved judgement on the reach of § 1343 (3) and (4) as a jurisdictional basis for statutory claims, the court has clearly indicated that § 1983 provides a cause of action to protect "rights, privileges or immunities secured by federal law." Lynch v. Household Finance Corp, 31 L.Ed.2d 424, 430, n. 7 (1972). See also Rodriguez v. Swank, 318 F. Supp. 289 (1970); compare Townsend v. Swank, 404 U.S. 282 (1971)

Tit. 28 U.S.C. § 1361

Later cases which have taken a broad view of the mandamus remedy under § 1361 include Cartwright v. Resor, 325 F. Supp 797, 812 (E.D.N.Y. 1971), rev'd on other grounds,447 F.2d. 245 (2nd Cir. 1971), cert den 405 U.S. 965 (1972). Carrey v. Local Board No. 2, Hartford, Conn. 297 F. Supp. 252, 254-55 (D. Conn. 1969)

Venue with Respect to Federal Officials under Tit 28 U.S.C. § 1391(e)

The issue of whether venue is proper with respect to the federal defendants is not dealt with in the Babbidge memorandum. It may arise in other cases. This issue is whether the term "each defendant" in § 1391(e), set out below, requires all defendants to be federal officials.

28 U.S.C. 1391 (e):

> "A civil action in which each defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may, except as otherwise provided by law, be brought in any judicial district in which: (1) a defendant in the action resides, or (2) the cause of action arose, or (3) any real property involved in the action is situated, or (4) the plaintiff resides if no real property is involved in the action.
>
> The summons and complaint in such an action shall be served as provided by the Federal Rules of Civil Procedure except that the delivery of the summons and complaint to the officer or agency as required by the rules may be made by certified mail beyond the territorial limits of the district in which the action is brought."

In a number of cases, the statutory requirment that "each" defendant be a federal official has been held to refer only to those defendants who are beyond the forum's territorial limits for service of process. Kletachka v. Driver, 441 F.2d. 436 (2d. Cir. 1969). Powelton Civic Home Owner's Association v. Department of Housing and Urban Development, 284 F. Supp. 809 (E.D. Penn. 1968); Brotherhood of Locomotive Engineers v. Denver Rio Grande W.R.R., 290 F. Supp. 612 (D. Colo. 1968), aff'd on other grounds, 411 F. 2d. 1115 (10th Cir. 1969); Liberation News Service v. Eastland, 429 F. 2d 1379 (S.D.N.Y. 1970). But see Town of E. Haven v. Eastern Airlines, Inc., 282 F. Supp. 507 (D. Conn. 1968) and Chase Savings & Loan Ass'n v. Federal Home Loan Bank Board, 269 F. Supp. 965 (E.D. Pa. 1967) (all defendants must be federal officials).

A different and somewhat narrower interpretation than the Powelton line of cases was reached in Macias v. Finch, 324 F. Supp. 1252 (N.D.Cal.), aff'd per curiam sub. nom. Macias v. Richardson, 400 U.S. 913 (1970). While Macias held that all defendants need not be federal officials, it applied such an interpretation of §§ 1391(e) because the action was "essentially against the United States." Thus, in Macias, the "thrust" of the complaint was against a federal welfare regulation which California was required to follow in order to obtain federal financial assistance.

PUBLIC INFORMATION

The Title I statute and the regulations issued thereunder give Title I parents and the general public a broad right of access to Title I applications, reports, evaluations and other "pertinent documents."

Statutory provisions

20 USC 241 (e)(a) requires a state education agency, in approving a local educational agency's application for Title I funds, to determine, among other things,

"(7) that the local educational agency will make an annual report and such other reports to the state educational agency as may reasonably be necessary to enable the state agency to perform its duties and will keep such records and afford such access thereto as the state educational agency may find necessary to verify the reports;

(8) that the local agency is making the application and all pertinent documents related thereto available to parents and other members of the general public "and that all evaluations and reports required under paragraph (7) shall be public information;"

HEW Regulations

On October 14, 1971, HEW published its Public Information regulation in the Federal Register. The regulation, 45 C.F.R. 116.17(n) is set out below along with H.E.W.'s summary of comments and an earlier memorandum. The regulation governs requests from parents and the general public.

> (n) Each application by a local educational agency for a grant under title I of the Act shall include specific plans for disseminating information concerning the provisions of title I, and the applicant's past and present title I programs, including evaluations of such programs, to parents and to the general public and for making available to them upon request the full text of current and past title I applications, all pertinent documents related to those applications, evaluations of the applicant's past title I projects, all reports required by §116.23 to be submitted to the State educational agency, and such other documents as may be reasonably necessary to meet the needs of such parents or other members of the public for information related to the comprehensive planning, operation, and evaluation of the title I program but not including information relating to the performance of identified children and teachers. Such plans shall include provision for the reproduction, upon request, of such documents free of charge or at reasonable cost (not to exceed the additional costs incurred which are not covered by title I funds) or provisions whereby persons requesting such copies will be given adequate opportunity to arrange for the reproduction of such documents.

Summary of comments--1. Public information. Commenters on § 116.17(n) emphasized the possibility that notwithstanding the limitations in the rule with respect to charges for copies of documents local educational agencies might charge excessively, thus preventing poor parents from securing the documents they need in order to understand the local title I program. They recommended that copies be made available free of charge. Objections were raised to the proposed rule on the grounds that it could be interpreted as requiring the assessment of charges of project documents and that the amounts charged could be recovered both from parties requesting copies and from title I funds. The change indicated above is intended to remove the cause for both of those objections. Also, while charges may still be made for copies of documents it should be noted that the subject paragraph requires a positive dissemination program and the following paragraph (§ 116.17(o)) requires that parent councils be given such documents free of charge.

Record Retention Requirements

45 C.F.R. § 116.54 Retention of records.

(PARAGRAPH (a) AMENDED NOVEMBER 28, 1968, 33 F.R. 17790)

(a) Subject to the provisions of paragraph (c) of § 116.55, each State educational agency and local educational agency receiving a grant under Title I of the Act shall keep intact and accessible all records relating to such Federal grants or the accountability of the grantee for the expenditure of such grants (1) for 5 years after the close of the fiscal year in which the expenditure was made, or (2) until the State educational agency is notified that such records are not needed for administrative review, whichever is the earlier.

(b) The records involved in any claim or expenditure which has been questioned shall be further maintained until necessary adjustments have been made and such adjustments have been reviewed and approved by the Department of Health, Education, and Welfare.

Federal Register vol. 36, p. 3718, Guide to Record Retention Requirements, February 26, 1971.

1.16 State and local educational agencies receiving financial assistance for the education of children of low-income families, pursuant to title I of the Elementary and Secondary Education Act of 1965, which amended Public Law 81-874, as amended. /Amended/

(a) To keep intact and accessible all records supporting claims for Federal grants or relating to the accountability of the grantee for expenditure of such grants.

Retention period: (1) 5 years after close of fiscal year in which expenditure was made; or (2) until State educational agency is notified that such records are not needed for administrative review, whichever is the earliest.[6] 45 CFR 116.54

(b) To maintain inventory records on equipment acquired with Federal funds and placed in the temporary custody of persons in a private school.

Retention period: 1 year following period inventories must be kept, i.e., until the equipment is discharged from such custody and, if costing $100 or more per unit, for the expected useful life of the equipment or until its disposition. 45 CFR 116.55

45 CFR §116.23 Reports by local educational agencies

This section, in addition to requiring LEA's to give assurances that annual and other reports will be made to the State Education Agency, specifies that

> "The local educational agency shall keep such program and fiscal records, and afford such access thereto, as the State educational agency may find necessary to assure the correctness and verification of such reports and the expenditure of funds granted under Title I of the Act."

Additional Rights of Parent Advisory Councils to Information

LEA's are required to include in their Title I applications sufficient information to enable the State educational agency to determine:

(ii) That each member of the council has been furnished free of charge copies of title I of the Act, the Federal regulations, guidelines, and the local education agency's current application; and that such other information as may be needed for the effective involvement of the council in the planning, development, operation, and evaluation of projects under said title I (including prior applications for title I projects and evaluations thereof) will also be made available to the council:

(iii) That the local educational agency has provided the parent council with the agency's plans for future title I projects and programs, together with a description of the process of planning and developing those projects and programs, and the projected times at which each stage of the process will start and be completed;

(iv) That the parent council has had an adequate opportunity to consider the information available concerning the special educational needs of the educationally deprived children residing in the project areas, and the various programs available to meet those needs, and to make recommendations concerning those needs which should be addressed through the title I program and similar programs;

(v) That the parent council has had an opportunity to review evaluations of prior title I programs and has been informed of the performance criteria by which the proposed program is to be evaluated;

(vi) That the title I program in each project area includes specific provisions for informing and consulting with parents concerning the services to be provided for their children under title I of the Act and the ways in which such parents can assist their children in realizing the benefits those services are intended to provide;

(vii) That the local educational agency has adequate procedures to insure prompt response to complaints and suggestions from parents and parent council;

(viii) That all parents of children to be served have had an opportunity to present their views concerning the application to the appropriate school personnel, and that the parent council has had an opportunity to submit comments to the state educational agency concerning the application at the time it is submitted, which comments the State educational agency shall consider in determining whether or not the application shall be approved.

45 CFR §116.17 (0)(2)

The major difference between the rights of the public and of Parent Advisory Councils to obtain Title I information from a local educational agency do not concern what information is available to each group - they both have the right to the same information. The differences are (1) Parent Advisory Councils must be provided certain information free of charge while the public may have to pay a "reasonable" charge for copies and (2) members of Parent Advisory Councils must be provided information in time (and) presumably without request) for the PAC to perform the role specified in the regulation above; the general public, on the other hand, is provided information on request.

END

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